

**FAULKNER, HOFFMAN
& PHILLIPS, LLC**

A T T O R N E Y S A T L A W

GEORGE H. FAULKNER

MAIN: 216.781.3600

FAX: 216.781.8839

Faulkner@fhplaw.com

April 22, 2013

VIA E-MAIL (DAVIDENGLER@DAVIDENGLER.COM) AND CERTIFIED MAIL

David L. Engler, Esq.
100 DeBartolo Place - Suite 315
Boardman, Ohio 44512

David L. Engler, Esq.
839 Southwestern Run
Youngstown, Ohio 44514

**Re: Potts v. American Bottling Company, et al.
 Case No. 5:12-cv-02688-JRA**

Dear Mr. Engler:

As you know, we represent Teamsters Local Union No. 377 ("Local 377" or the "Union") in connection with the lawsuit filed on behalf of Robert Potts. I am writing this letter pursuant to Federal Rule of Civil Procedure 11. I understand that you will soon receive, or already have received, a similar letter from counsel for The American Bottling Company ("ABC"). The purpose of this letter is to inform you that the claims against ABC and the Union are without legal or factual basis. As such, if you do not voluntarily dismiss these claims within the next twenty-one (21) days, ABC and the Union may file the attached joint motion, requesting all available sanctions against both Plaintiff and your firm.

The utter lack of support for Plaintiff's claims is clear. First, Plaintiff's September 2009 temporary layoff complied with the terms of the applicable collective bargaining agreement. Second, the uncontroverted facts show that ABC offered to convert Plaintiff's temporary layoff to a permanent layoff so that, under Article 14, Section 1 of the collective bargaining agreement, he could "bump" into another position based on plant seniority, but Mr. Potts failed to respond to ABC's offer which was repeated numerous times. Third, Plaintiff waived, released, or withdrew the grievances upon which he has based his claims. Finally, Plaintiff's claims are barred by the six month statute of limitations for hybrid §301 actions. For any or all of these reasons, Plaintiff's lawsuit must be dismissed.



I. Plaintiff's Grievances Are Baseless

A. Plaintiff's Temporary Layoff Complied With The CBA

On September 21, 2009, in accordance with the terms of the CBA, ABC placed Plaintiff on temporary layoff due to significant decline in its business. Specifically, Article 14, Section 1 of the applicable CBA provides that "in the event of temporary layoffs **classification seniority** shall prevail." Plaintiff admitted under oath that as of September 21, 2009 he was the least senior employee in the Warehouse Department. (Ex. E to Rule 11 Mot., Plaintiff's July 6, 2011 Deposition ("Pl. Dep."), 209:20-211:2). As such, his claim that "his temporary lay-off did not conform to the provisions of the collective bargaining agreement" is simply without merit. (Dkt.1, Cmpl. ¶8.)

Also flawed is Plaintiff's claim that ABC "did not have a lack of work" in September 2009 because "during the one year period after the effective date of Potts' [sic] temporary layoff, [ABC] hired new employees to handle jobs for which Potts was qualified" [and] "[e]ach of those new hires had less plant-wide seniority than did Potts." (Dkt. 1, Cmpl. ¶ 7.) This claim is both immaterial and false. Plant-wide seniority does not govern temporary layoffs, as clearly stated in Article 14 Section 1 of the CBA, classification seniority does. Moreover, Plaintiff admitted under oath (i) that as of September 2010 he remained the least senior employee in his classification and (ii) when asked to identify any employee with less classification seniority than Plaintiff but who was hired into the Warehouse Department after his September 21, 2009 temporary layoff, Plaintiff could not identify a single individual.¹ (Ex. E to Rule 11 Mot., Pl. Dep., 194:13-196:21; 209:20-211:2; 210:7-211:21; 220:21-221:16.)

B. ABC Offered Plaintiff The Opportunity To "Bump By Seniority" Into A Merchandising Position, But Plaintiff Failed To Respond To ABC's Offer

Plaintiff's claim that "[ABC] failed and refused to afford Potts his contractual rights to avoid being placed on permanent lay-off by exercising his plant-wide seniority to return to work for [ABC]" is also without merit. (Dkt. 1, Cmpl. ¶ 8.) No less than four times, ABC offered Plaintiff the opportunity to "bump by seniority" into a Merchandising position based on his plant-wide seniority. Plaintiff admitted under oath that he received ABC's offer and failed to act on it.

Specifically, during a September 14, 2010 grievance meeting, ABC offered Plaintiff a Merchandising position. (Ex. A to Rule 11 Mot., Sept. 14, 2010 grievance meeting notes.) ABC reduced this offer to writing on September 30, 2010, stating that effective October 15, 2010 it would convert Plaintiff's temporary layoff into a permanent layoff to allow him the opportunity to exercise his contractual rights to "bump by seniority" into the Merchandising Department.

¹ In fact, the evidence establishes that the only new hires were for Merchandising positions. Given that Plaintiff also admitted under oath that ABC offered him the opportunity to bump one of these individuals and assume a Merchandising position (see *infra* Section B), his claim is immaterial for this reason as well.

(Ex. B to Rule 11 Mot., September 30, 2010 Correspondence.) ABC requested that Plaintiff respond to this offer in writing within 15 working days, and after not receiving a response from Plaintiff ABC extended this deadline by approximately two months. *Id.* Despite acknowledging receipt of ABC's offer, Plaintiff never communicated his intentions to ABC concerning whether he planned to exercise his bumping rights to move into a new position. (Ex. E to Rule 11 Mot., 197:11-192:2; 228:8-229:14; Ex. F to Rule 11 Mot., October 15, 2010 Correspondence; Ex. C to Rule 11 Mot., October 2, 2010 Correspondence.) Only after Plaintiff failed to respond to ABC's offer despite having three months to consider it, did ABC terminate his employment effective December 1, 2010 in accordance with Article XIV, Section 7, paragraph D of the CBA. (Ex. I to Rule 11 Mot., December 13, 2010 Correspondence.)

Notably, with regard to Plaintiff's failure to respond, Judge John R. Adams stated during the February 5, 2013 Case Management Conference:

If the plant and the company and the union negotiated a process for a return by the plaintiff to his employment, giving him a right to bump plant-wide back into his old job or to a job period, what are we here about?

...

With all due respect, sir, if it becomes readily apparent that there was a process in place to allow the plaintiff to return to his employment in some capacity, it's pretty hard to argue or it will be very difficult to argue the union in some way, shape or form didn't meet its obligation to fairly represent the plaintiff. What is the goal here? The goal would be for any union to try to afford a process for the employee to keep his job. If they did that, and the plaintiff chose, for whatever reason not to avail himself of that, one can be -- it would be very hard pressed to say that the union didn't do their job.

...

If, in fact, plaintiff acknowledges his knowledge of that offer and the company has agreed to it, acceded to it, then that puts the case in a very challenging position for the plaintiff. And I would strongly encourage you, sir, because the costs of all this litigation, if it becomes patently clear that this case is -- the merits of the case are not what they should be, then obviously, I will have two defendants here clamoring for costs and maybe fees, so someone better take a careful look.

(Dkt. 24, 17:22-25, 19:22-20:8, 20:19-21:2.)

II. Plaintiff Released/Withdrew the Grievances Forming The Basis Of His Claims

Irrespective of the above facts, Plaintiff's claims are barred because he cannot establish that he exhausted the applicable grievance procedure with respect to the grievances forming the



basis for his claims. Plaintiff expressly relies on Grievance numbers 11823 and 11824 to support his claims against the Employer and the Union. (Dkt. 1, Cmpl. ¶¶8, 9.) He cannot do so. As to Grievance 11824, the Settlement Agreement that Plaintiff executed in Case No. 4:11-cv-00149-KSM with ABC, unambiguously provides that the only grievances that survive are Grievances 11823 and 4956. As such, Grievance 11824 is a nullity. Unfortunately, at no time after entering the Settlement Agreement in 2011 did Mr. Potts advise the Union that he waived and released Grievance 11824. In fact, your client's letter to the Union dated January 3, 2012, effectively misrepresents that Grievance 11824 was pending at that time when, in fact, it had been released in settlement of litigation between your client and ABC.

As to Grievance 11823, Plaintiff withdrew this grievance. Indeed, in correspondence dated October 2 and 6, 2010 to the Union, Plaintiff requested that the Union withdraw this grievance, and the Union confirmed the withdrawal of this grievance in correspondence to him dated October 12, 2010. (Exs. C & D to Rule 11 Mot., October 2, 2010, October 6, 2010, and October 12, 2010 Correspondence.) Moreover, Plaintiff admitted under oath that he withdrew this grievance. (Ex. E to Rule 11 Mot., 196:22-198:1; 225:2-226:10; 230:13-22; 233:8-9). As such, Grievance 11823 is also a nullity.

In sum, by virtue of Plaintiff's own conduct, he has no active grievances upon which he can pursue his §301 claim and therefore the claim is barred by his failure to exhaust the grievance procedure. *Delcostello v. International Brotherhood of Teamsters*, 462 U.S. 151, 163 (1983); *Winston v. General Drivers, Warehousemen & Helpers, Local 89*, 93 F.3d 251, 255 (6th Cir. 1996); *Poole v. Budd Co.*, 706 F.2d 181, 183 (6th Cir. 1983) ("It is axiomatic that an aggrieved employee must exhaust any exclusive grievance and arbitration procedures in a collective bargaining agreement prior to bringing a §301(a) suit against the employer."); *Aaron v. Ford Motor Company*, 2011 WL 2149419, *2 (N.D. Ohio) (citing *Wiggins v. Chrysler Corp.*, 728 F. Supp. 463, 466 (N.D. Ohio, 1989)).

III. Plaintiff's Claims Are Time Barred

Even setting aside the above facts, Plaintiff's claims are without merit for the simple fact that his claims are time barred. The statute of limitations for hybrid §301 claims is six months. It is well settled that the statute begins to run when an employee knew or should of known of the alleged acts given rise to the cause of action. *Garrish v. Int'l Union, United Automobile, Aerospace, and Agricultural Implement Workers of America*, 417 F.3d 590, 594 (6th Cir. 2005).

However, Plaintiff's own admissions and conduct reveal that he actually knew of the alleged conduct long before this. On October 22, 2010, Plaintiff wrote to the Union accusing the Union of "failing to act solely in the interest of the grievant, and refusing to protect my interest in all dealings with my Employer by way of refusing to process my grievance #11824 . . ." (Ex. H to Rule 11 Mot., October 22, 2010 Correspondence.) Plaintiff further wrote a second letter to the Union, dated October 27, 2010, in which he accused the Union's Business Agent of "failing to perform your duties as a Business Agent . . ." Plaintiff also testified under oath that he knew as of November 17, 2010 that the Union had allegedly ceased acting on his behalf. (Ex. E to Rule 11 Mot., Pl. Dep. 243, 249-250.) Furthermore, on May 7, 2011, Plaintiff filed a charge

with the National Labor Relations Board in which he signed a Declaration asserting, among other things, that the Union had allegedly "failed to represent him." (Ex. J to Rule 11 Mot., Pl. NLRB Charge.) Given these facts, Plaintiff had until either May 2011 or, at the latest, October 2011, to file his action. As he did not file the Complaint until October 26, 2012, his claims are clearly time barred.

Rule 11 Standard

Rule 11 provides, in relevant part:

(b) Representation to the Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, -

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claim, defenses, and other legal contention therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically, so identified, are reasonably based on a lack of information or belief.

As set forth in detail, it is clear that you failed to do a proper factual investigation prior to filing Plaintiff's Complaint. We understand that at the February 5, 2013, Case Management Conference, ABC attorney Cintra McArdle advised you of this. Now there can be no question that you are aware of these facts. A refusal to dismiss these meritless, factually unsupported claims in light of Plaintiff's own admissions and the undisputed facts would only serve to intensify this sanctionable conduct.

If you would like to meet to discuss the content of this letter, we are willing to do so; however, if you do not dismiss Plaintiff's claims before the end of the "safe harbor" period, we may file the attached Joint Motion for Sanctions against both Plaintiff and your firm and seek any and all remedies available under Rule 11 (or other available statutory vehicles). Further, we sent you a subpoena for your client's appearance at a deposition scheduled for Tuesday, April 30, 2013, and be aware that counsel for ABC will be traveling from Chicago to attend that deposition. Therefore, the further costs of preparing for, and conducting, Plaintiff's deposition on his meritless claims will be factored into the Rule 11 relief we may seek from the Court as well.

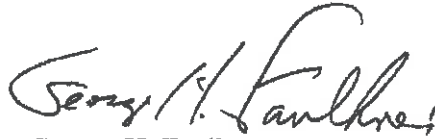
David L. Engler
April 22, 2013
Page 6 of 6

**FAULKNER, HOFFMAN
& PHILLIPS, LLC**

ATTORNEYS AT LAW

Sincerely yours,

FAULKNER, HOFFMAN & PHILLIPS, LLC, by



George H. Faulkner

GHF:sm

cc: Cintra B. McArdle, Esq.

Enclosures



SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>A. Signature <i>[Signature]</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>David L. Engler, Esq. 100 DeBartolot Place, Ste. 315 Boardman, OH 44512</p>		<p>B. Received by (Printed Name) <i>[Signature]</i> C. Date of Delivery <i>5-2-13</i></p>	
		<p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes If YES, enter delivery address below: <i>839 South Western Run Poland, Ohio 44514</i></p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number- (Transfer from service label)</p>		<p>7012 3050 0001 8154 1026</p>	
PS Form 3811, February 2004		Domestic Return Receipt 102585-02-M-1540	

U.S. Postal ServiceTM
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)
 For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees	\$	

Sent To *Engler 44513*
 Street, Apt. No.,
 or PO Box No. *Boardman*
 City, State, ZIP+4

PS Form 3800, August 2000 See Reverse for Instructions

EXHIBIT A

ROBERT POTTS

4143 Jeanette Drive
Warren, Ohio 44484
(330) 866-6103

September 14, 2010

TEAMSTERS LOCAL 377

Attn: *Justin Averell*

1223 Teamster Drive
Youngstown, Ohio 44502

RE: *Grievance # 11823*
POSITION STATEMENT OF GRIEVANT

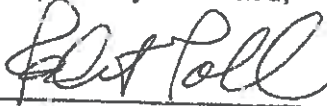
My position is indicated hereunder:

The Company did not apply plant wide seniority for purpose of permanent lay-off.

ISSUE

My name is not last on the plant wide seniority list.

Respectfully submitted,



Robert Potts



9/14/10

Y-tours grievance meeting

MB

John L

W. H. St. Paul

Justin A

John T. Miller

Robert P. Miller

Att. provide protection

? of March job

- offer verbal

- offer by permanent
layoff language

EXHIBIT B

To: Robert Potts (via certified mail)
CC: Teamsters Local 377; William Stimmel, Branch Manager; John Taraba,
Distribution Supervisor (all via email)
From: Mike Bobal, Associate HR Manager
Date: 9/30/10
Re: Grievance #11823 Unjust Involuntary Layoff



A grievance was received claiming the Company violated Articles 14, 10, 9, 8, 7, 2 of the contract by involuntarily laying off the grievant.

A meeting was held at the Union Hall on 9/14 to discuss this matter. Present for this meeting for the Union was John Lesicko, Justin Averell, and Robert Potts (grievant). Present for the Company were William Stimmel, John Taraba and Mike Bobal.

The Company points out that the grievant was properly laid-off effective 9/21/09 as he was the least senior person in the department that was over-staffed. Specifically, that though Article 14 section 1 points out that permanent layoffs need to follow plant-wide seniority, Article 14, Section 1 also clearly states "in the event of temporary layoffs classification seniority shall prevail." As this was, at the time, a temporary layoff and he had the least seniority, there was no contractual violation.

The process of laying off the grievant was the same method used to temporarily lay off the grievant both on 1/14/08 & 1/12/09. In both of those cases, the grievant was recalled to employment (3/31/08 & 6/8/09, respectively). None of the three layoff letters indicated he was being permanently laid-off. Each letter indicated that the layoff was for an undetermined length of time. The difference is that unlike 2008 and 2009, business needs did not pick-up enough to require a recall to work.

The Company acknowledges that with nearly a year now passing, the situation may result in a loss of seniority. To avoid this possibility (and in consideration of the fact that it has been over a year), the Company is willing to now consider this a "permanent layoff," effective 10/15/10. This will allow the grievant the opportunity to exercise his contractual rights to "bump by seniority and classifications until the least senior employee is displaced" (per Article 14, Section 1). This would, most logically be a Merchandiser position.

Should the grievant wish to pursue this course of action he needs to contact the Company in writing expressing the desire within the 15 working day period that this grievance answer is up for review. His letter should also contain a good phone number in order to be reached. He would then be contacted by a member of the Corporate Talent/ Recruitment team by phone so the driving record can be checked/ reviewed and proof of auto insurance obtained (qualifications).

If the grievant declines this opportunity, then the Company will deal with the grievant's time away from work and possible loss of seniority.

Therefore this grievance is denied.

One last item: The Company and Union Representatives have agreed to hold Grievance #11824 in abeyance until Grievance #11823 is closed. The grievant (same in both items) has **NOT** been terminated by the Employer at this point and no paperwork stating that he has been termed from employment has been sent out. Once Grievance #11823 is finalized, all parties could move onto this new grievance if it is necessary.

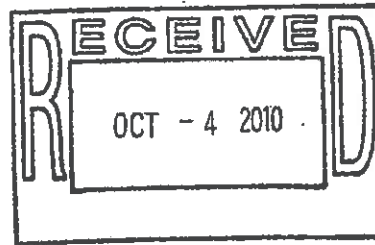
EXHIBIT C

Robert Potts

4143 Jeanette Drive
Warren, Ohio 44484
(330) 856-6103

October 2, 2010

TEAMSTERS LOCAL 377
Attn: JUSTIN AVERELL
1223 Teamster Drive
Youngstown, Ohio 44502



Dear Justin:

This serves to advise that I am in receipt of the Company's letter dated 9/30/2010, mailed via USPS Certified Mail # 7002-0510-0000-7491-2152, postmarked 10/1/2010.

To begin, I hereby reiterate/assert that grievance # 11823 is only a wage claim.

Next, as evidenced, the Company's letter is dated 9/30/2010, and over a year has lapsed in time. The loss of my seniority/discharge already occurred about (10) ten days ago on 9/21/2010; defer to (CBA) Article 14, section (10) and Article 7, section (1).

Moreover, on 9/21/2010, I already had dialogue with both John Taraba and Bill Stimmel by way of my personal appearance at 1142 North Meridian Road, Youngstown, Ohio location, as I signed-in on the Company's sign-in record/log, and presented/submitted my grievance # 11824. I indicate that no union representative/steward was available at the time; defer to the Company's log or sign-in/record or "sheet" at its front door. I now herein request that my timely grievance # 11824 be processed at this time-regarding my improper layoff, discharge or loss of entitled seniority. I'm ready for our discussion.

Despite the above, at all times relevant, I assert that I was improperly laid-off in violation of the labor contract (s); defer to Company payroll records; and also at all times relevant I was not the least senior person in classification/department at any incident.

With that said, any issue regarding my lay-off (s) has never been remedied because of the past internal union matters regarding the suspension of Teamster Local 377 officials and the jurisdiction/trusteeship of Charlie Byrnes. The same issues remain at this date.

In closing, the Company's correspondence dated 9/30/2010, recorded as served via USPS Certified Mail, is pertinent evidence of my loss of seniority, termination, or discharge on 9/21/2010. I suggest we withdraw grievance # 11823, so that we may focus on and duly process my grievances (# 11824 and # 7680) at this time, as I believe the Company's letter dated 9/30/2010 was not in good faith, and is an example of fraud.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert Potts".
Robert Potts



Robert Potts

4143 JEANETTE DRIVE
WARREN, OHIO 44484
(330) 856-6103

October 6, 2010

TEAMSTERS LOCAL 377
Attn: JUSTIN AVERELL
1223 Teamster Drive
Youngstown, Ohio 44502

RE: Request for Status Update-REPORT

Dear Justin:

I have assumed that you received and completed your duly review of my correspondence dated 10/2/2010 and 10/4/2010 in preservation of my right to the protection of the contract. I am available for any discussion.

As such, at this time, I hereby respectfully make request for a status update regarding the following identified/itemized grievances:

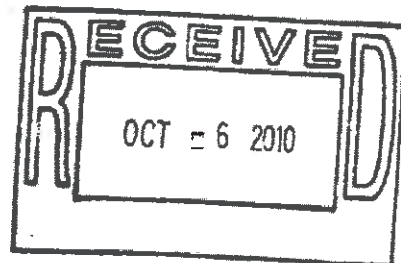
1. *Grievance # 11823, date WITHDRAWN per my request/DISPOSITION;*
2. *Grievance # 11824, ACTIVITY/STATUS UPDATE;*
3. *Grievance # 7680, ACTIVITY/STATUS UPDATE;*
4. *"NEW" Grievance, as requested-that you prepare, sign, and file on my behalf;*
5. *ANY OTHER GRIEVANCE, filed on my behalf/STATUS UPDATE.*

In closing, thank you in advance for any duly assistance and TEAMSTER REPRESENTATION in this matter, as I await your informative status/report or update.

Sincerely,



Robert Potts



893007

EXHIBIT D



Chauffeurs, Teamsters, Warehousemen & Helpers Local Union No. 377

AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JOHN J. ANGELO MEMORIAL HALL

PHONE: 330-743-3111 OR 1-800-783-6320 1223 TEAMSTERS DR. YOUNGSTOWN, OHIO 44502-1348
FAX: 330-743-1821

JOHN LESICKO
Secretary-Treasurer
Principal Officer

SAM PROSSER
President

KEVIN KOUBECK
Vice President

MELODY CAMPBELL
Recording Secretary

ROBERT BONHOFF
Trustee

DANIEL NODAY
Trustee

DARRELL ZEH
Trustee

JUSTIN AVERELL
Business Representative

GERALD SANDERS
Business Representative

October 12, 2010

Mr. Robert Potts
4143 Jeanette Drive
Warren, OH 44484

Dear Robert,

I am in receipt of your correspondence regarding grievance # 11823, 11824, 7680 and the request of a new grievance to be filed on your behalf covering all differences between yourself and the Employer.

Also, per your request dated October 5, 2010, I will withdraw grievance # 11823 without prejudice and file the new grievance on or about October 13, 2010, at which time I will also request a meeting to bring all parties to the table to remedy contractual violations.

Fraternally yours,

Justin Averell
Business Representative
Teamsters Local No. 377

Certified Mail: 7010 0290 0003 6116 9733

095008

EXHIBIT E

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ROBERT A. POTTS,

Plaintiff,

vs. Case No. 4:11-CV-00149-KSM

AMERICAN BOTTLING CO., dba 7-UP,

aka DR. PEPPER SNAPPLE GROUP,

aka DR. PEPPER/SEVEN UP, INC.,

fka CADBURY SCHWEPES

BOTTLING GROUP, INC.,

Defendant.

- - - - -

DEPOSITION OF ROBERT A. POTTS

Taken on Wednesday, July 6, 2011, at 9:15 a.m.

At the offices of:

Baker Hostetler

3200 PNC Center

1900 East 9th Street

Cleveland, Ohio 44114

Before Steven H. Henschel, a Registered Professional Reporter

in and for the State of Ohio



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 2	Page 4
<p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of the Plaintiff:</p> <p>4 Guarnieri and Secrest, P.L.L., by</p> <p>5 MICHAEL D. ROSSI, ESQ.</p> <p>6 151 East Market Street</p> <p>7 P.O. Box 4270</p> <p>8 Warren, Ohio 44482</p> <p>9 (330)393-1584</p> <p>10 mrossi@gsfirm.com</p> <p>11 On behalf of the Defendant:</p> <p>12 Seyfarth Shaw, LLP, by</p> <p>13 CINTRA BENTLEY MCARDLE, ESQ.</p> <p>14 131 South Dearborn Street</p> <p>15 Suite 2400</p> <p>16 Chicago, Illinois 60603</p> <p>17 (312)460-5000</p> <p>18 cmcardle@seyfarth.com</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 A. Sure.</p> <p>2 Q. Today we're going to be</p> <p>3 asking you a series of questions about</p> <p>4 the claims that you filed relating to</p> <p>5 your employment with ABC, the layoffs</p> <p>6 that you incurred and your subsequent</p> <p>7 termination of employment, okay?</p> <p>8 A. Yes.</p> <p>9 Q. Please state your full name.</p> <p>10 A. Robert A. Potts.</p> <p>11 Q. What does the A stand for?</p> <p>12 A. Anthony.</p> <p>13 Q. Have you ever gone by any</p> <p>14 other name?</p> <p>15 A. No.</p> <p>16 Q. Have you ever had your</p> <p>17 deposition taken before?</p> <p>18 A. No.</p> <p>19 Q. Today, since you haven't had</p> <p>20 your deposition taken before, we'll go</p> <p>21 over some ground rules which you may</p> <p>22 have already covered with your attorney</p> <p>23 but I think it's helpful to do this</p> <p>24 morning as well. You have been placed</p> <p>25 under oath and you understand that means</p>
Page 3	Page 5
<p>1 ROBERT A. POTTS, of lawful age,</p> <p>2 called for examination, as provided by</p> <p>3 the Federal Rules of Civil Procedure,</p> <p>4 being by me first duly sworn, as</p> <p>5 hereinafter certified, deposed and said</p> <p>6 as follows:</p> <p>7 EXAMINATION OF ROBERT A. POTTS</p> <p>8 BY-MS.MCARDLE:</p> <p>9 Q. Good morning, Mr. Potts. My</p> <p>10 name is Cintra McArdle, we met just a</p> <p>11 few minutes ago out on the lobby. I'm</p> <p>12 here today to take your deposition in a</p> <p>13 case being filed against the American</p> <p>14 Bottling Company, do you understand</p> <p>15 that?</p> <p>16 A. Yes.</p> <p>17 Q. And I represent the</p> <p>18 defendant, the American Bottling</p> <p>19 Company, which I will refer to</p> <p>20 interchangeably as ABC, DPSG or the</p> <p>21 company, is that okay with you?</p> <p>22 A. Sure.</p> <p>23 Q. So if I use DPSG or the</p> <p>24 company you'll understand that I mean</p> <p>25 the American Bottling Company?</p>	<p>1 you're to tell the truth under penalty</p> <p>2 of perjury today, correct?</p> <p>3 A. Yes.</p> <p>4 Q. Today I'll ask you a series</p> <p>5 of questions for which you will be</p> <p>6 providing answers. Since we have a</p> <p>7 court reporter, not a videographer, I</p> <p>8 would request that you wait until my</p> <p>9 question is complete before giving your</p> <p>10 answer and I will endeavor to do the</p> <p>11 same, wait until your answer is complete</p> <p>12 before I start another question, is that</p> <p>13 fair?</p> <p>14 A. Can you repeat that, please?</p> <p>15 Q. Sure. All I'm saying is</p> <p>16 let's not step on each other, make sure</p> <p>17 that I've finished asking my question</p> <p>18 before you start answering. I know</p> <p>19 sometimes people think, oh, I know where</p> <p>20 this question is going so they start</p> <p>21 answering. And I'll do the same, I'll</p> <p>22 wait until you finish your answer until</p> <p>23 I ask another question, is that fair?</p> <p>24 A. Fair enough.</p> <p>25 Q. Also, we don't have a</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 6	Page 8
<p>1 videographer, as I said, so the court 2 reporter will need audible responses 3 from you meaning a yes or a no if 4 appropriate to the question, not a shake 5 of the head, that won't be able to be 6 picked up by the court reporter. 7 A. Understood. 8 Q. Today I'm asking for your 9 personal knowledge about facts in this 10 case so I would request that you don't 11 speculate or guess about any 12 information, is that correct fair? 13 A. Fair enough. 14 Q. If you don't understand a 15 question I would like you to please ask 16 me as you just did earlier, but if you 17 don't ask me and you don't ask me to 18 clarify that question I'll assume you've 19 understood it, is that fair? 20 A. Fair. 21 Q. At this point I wanted to 22 ask you, are you on any medications? 23 A. No. 24 Q. Is there any reason you 25 can't answer my questions today?</p>	<p>1 Bottling Company, is that correct? 2 A. Let me review the pages. 3 Q. Sure. Take whatever time 4 you need during the deposition, if I 5 give you a document, to review the 6 document. 7 A. Okay. 8 Q. Now, are you able to answer 9 the question whether this is the second 10 amended complaint that you filed on or 11 about March 1st, 2011 against the 12 American Bottling Company? 13 A. It is. 14 - - - - - 15 (Thereupon, Deposition 16 Exhibit-2 was marked for 17 purposes of identification.) 18 - - - - - 19 Q. I'm handing you what's been 20 marked Deposition Exhibit 2, have you 21 seen these documents before? 22 A. Yes, I have. 23 Q. And do you know what these 24 documents are? 25 A. Yes.</p>
Page 7	Page 9
<p>1 A. I don't understand, what do 2 you mean? 3 Q. Is there anything that would 4 prevent you from providing full and 5 complete answers to my questions today? 6 A. No. 7 Q. What I'd like to do first is 8 introduce some preliminary exhibits and 9 identify them and then we'll start into 10 the line of questioning. 11 A. Sure. 12 - - - - - 13 (Thereupon, Deposition 14 Exhibit-1 was marked for 15 purposes of identification.) 16 - - - - - 17 Q. Handing you what's been 18 marked Deposition Exhibit 1, do you know 19 what this document is? 20 A. Yes. 21 Q. What is it? 22 A. The second amended complaint. 23 Q. This is the second amended 24 complaint that you filed on or about 25 March 1st, 2011 against the American</p>	<p>1 Q. What are they? 2 A. Inter correspondence between 3 my counsel and yourself, and Michelle, I 4 can't pronounce her last name. 5 Q. Anselmo? 6 A. Anselmo. 7 Q. A N S E L M O ? 8 A. Yes. 9 Q. Do you have an understanding 10 that these represent what are called 11 initial disclosures in this case, 12 meaning that you've set forth certain 13 individuals that you believe have 14 knowledge concerning your claims in this 15 case? 16 A. Yes. 17 - - - - - 18 (Thereupon, Deposition 19 Exhibit-3 was marked for 20 purposes of identification.) 21 - - - - - 22 Q. Showing you what's been 23 marked Deposition Exhibit 3, do you 24 recognize this document? 25 A. Yes.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 10	Page 12
<p>1 Q. What is this document?</p> <p>2 A. It's an answer to the first</p> <p>3 set of interrogatories to plaintiff.</p> <p>4 Q. And did you provide --</p> <p>5 without telling me the substance of</p> <p>6 those communications, did you provide</p> <p>7 certain information to your attorney so</p> <p>8 that questions from the company could be</p> <p>9 answered during the course of discovery?</p> <p>10 A. Yes.</p> <p>11 Q. And in providing that</p> <p>12 information, if we could flip to the</p> <p>13 seventh page from the back, roughly,</p> <p>14 it's a page that I believe bears your</p> <p>15 signature?</p> <p>16 A. Yes.</p> <p>17 Q. Is that your signature?</p> <p>18 A. Yes.</p> <p>19 Q. Pursuant to Federal Rule of</p> <p>20 Civil Procedure 33 you are required to</p> <p>21 answer interrogatories served to you by</p> <p>22 the defendant under oath under penalty</p> <p>23 of perjury. I notice you have signed</p> <p>24 pursuant to a notary signature but I'm</p> <p>25 going to ask you, is the information</p>	<p>1 document?</p> <p>2 A. Okay.</p> <p>3 Q. Do you see those?</p> <p>4 A. Yes.</p> <p>5 Q. And, again, feel free to</p> <p>6 flip through the entire document but my</p> <p>7 question is, are those your handwritten</p> <p>8 notes?</p> <p>9 A. They appear to be.</p> <p>10 Q. And the information that you</p> <p>11 provided in the handwriting of</p> <p>12 Deposition Exhibit 4, which are your</p> <p>13 handwritten notes, that is information</p> <p>14 designating certain documents as</p> <p>15 responsive to the American Bottling</p> <p>16 Company's document request in this case,</p> <p>17 is that right?</p> <p>18 A. Repeat that, please.</p> <p>19 Q. Sure. The handwritten notes</p> <p>20 that you have set forth in a portion of</p> <p>21 Deposition Exhibit 4 are your answers to</p> <p>22 designate certain documents as</p> <p>23 responsive to the American Bottling</p> <p>24 Company's document request, is that</p> <p>25 right?</p>
Page 11	Page 13
<p>1 that you provided to your attorney and</p> <p>2 set forth in this document true and</p> <p>3 accurate under penalty of perjury?</p> <p>4 A. Yes.</p> <p>5 - - - - -</p> <p>6 (Thereupon, Deposition</p> <p>7 Exhibit-4 was marked for</p> <p>8 purposes of identification.)</p> <p>9 - - - - -</p> <p>10 Q. Handing you what's been</p> <p>11 marked Deposition Exhibit 4, it's a</p> <p>12 multiple document exhibit that appear to</p> <p>13 look the same but you can tell me if I</p> <p>14 understand this correctly, the first set</p> <p>15 has some handwritten notes, if you flip</p> <p>16 through the documents clipped together,</p> <p>17 if you the flip through them there are</p> <p>18 some handwritten notes. I think I've</p> <p>19 clipped mine differently than yours so</p> <p>20 please look at the second clipped</p> <p>21 document.</p> <p>22 A. Two documents clipped</p> <p>23 together?</p> <p>24 Q. Correct. And there's some</p> <p>25 handwritten notes in that second</p>	<p>1 A. Appears correct.</p> <p>2 - - - - -</p> <p>3 (Thereupon, Deposition</p> <p>4 Exhibit-5 was marked for</p> <p>5 purposes of identification.)</p> <p>6 - - - - -</p> <p>7 Q. Showing you what's been</p> <p>8 marked Deposition Exhibit 5, have you</p> <p>9 ever seen this document before?</p> <p>10 A. I don't think so.</p> <p>11 Q. Deposition Exhibit 5 appears</p> <p>12 to be a correspondence from Mike Rossi</p> <p>13 to myself dated May 3rd, 2007.</p> <p>14 A. Okay.</p> <p>15 Q. In it it refers to certain</p> <p>16 discovery issues that were presented and</p> <p>17 provides some, what appears to be,</p> <p>18 information about discovery. My question</p> <p>19 for you is, on the second page it</p> <p>20 states, item 7, request number 42,</p> <p>21 "Plaintiff has not incurred any out of</p> <p>22 pocket medical expenses not covered by</p> <p>23 insurance. I'll let you know if and</p> <p>24 when he does." Is that an accurate</p> <p>25 statement as of today, this is dated May</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 14	Page 16
<p>1 3rd, 2011, but as of today have you 2 incurred any out of pocket expenses that 3 are not covered by insurance? 4 A. Not at this time. 5 - - - - - 6 (Thereupon, Deposition 7 Exhibit-6 was marked for 8 purposes of identification.) 9 - - - - - 10 Q. Showing you what's been 11 marked Deposition Exhibit 6, have you 12 seen this document before? 13 A. Yes. 14 Q. And this document is 15 correspondence from Mr. Rossi to myself 16 this time dated May 25th, 2011, is that 17 correct? 18 A. Say that again, please. 19 Q. Sure. Deposition Exhibit 6 20 is correspondence from Mr. Rossi to 21 myself dated May 25th, 2011, is that 22 correct? 23 A. That's correct. 24 Q. There's an attachment to this 25 correspondence, if you look at the</p>	<p>1 A. Whatever I had in my storage 2 box. 3 Q. And that's what I'm getting 4 at. So you had a storage box? 5 A. Just like a Kinko style box, 6 bunch of paperwork in it. 7 Q. How many storage boxes did 8 you have, just the one? 9 A. For this matter. 10 Q. Yes. And I am speaking of 11 this matter. So just for this matter 12 you had one storage box? 13 A. Yes. 14 Q. Where did you keep that 15 storage box? 16 A. At the residence. 17 Q. Is that your Jeanette 18 Drive -- 19 A. Correct. 20 Q. -- residence? And in that 21 box is it fair to say that you kept 22 copies of documents that you sent to the 23 American Bottling Company in part? 24 A. Some. 25 Q. And other documents were</p>
Page 15	Page 17
<p>1 attachment, is that your signature on 2 the lower right-hand portion of the 3 document? 4 A. Yes. 5 Q. We looked at Deposition 6 Exhibit 4, which were your responses to 7 document requests issued by the American 8 Bottling Company in this case. I'm not 9 going to ask you any specific questions 10 about the document but certainly feel 11 free to pull it out if you'd like to 12 look at it. My question for you is 13 more general, how did you go about 14 searching for documents to provide to 15 your attorney in this case? 16 A. Please expand, what do you 17 mean? 18 Q. How did you -- I'm assuming 19 you received some information from your 20 attorney. Again, I don't want to know 21 what the conversations were, but in 22 response to those questions or 23 information how did you go about 24 gathering documents to provide them to 25 your attorney for purposes of this case?</p>	<p>1 documents you received from the American 2 Bottling Company, is that correct? 3 A. I received some documents, 4 yes. 5 Q. So the box contained at 6 least correspondence that you sent to 7 the American Bottling Company and 8 correspondence you received from the 9 American Bottling Company, are there any 10 other categories of documents that 11 existed within that storage box? 12 A. Paperwork in general, yes. 13 Q. I'm sorry, paperwork in 14 general, yes, I'm not sure what you 15 mean? 16 A. Just paperwork in general as 17 documents, referring to documents, the 18 term documents. 19 Q. What type of paperwork are 20 you referring to? 21 A. Eight and a half by 11 and a 22 half, just papers. 23 Q. Did they relate to your 24 employment with the American Bottling 25 Company?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 18	Page 20
<p>1 A. Yes.</p> <p>2 Q. Did you maintain this storage</p> <p>3 box because you wanted to keep a record</p> <p>4 of events that occurred during your</p> <p>5 employment with the American Bottling</p> <p>6 Company?</p> <p>7 A. I generally just throw stuff</p> <p>8 in boxes, if it's needed I got somewhere</p> <p>9 to look for it.</p> <p>10 Q. How do you determine what</p> <p>11 you will retain and what you will throw</p> <p>12 away for purposes of the storage box</p> <p>13 that related to documents concerning the</p> <p>14 American Bottling Company?</p> <p>15 A. Based on my opinion.</p> <p>16 Q. And what opinion is that,</p> <p>17 sir?</p> <p>18 A. If I just decide to keep</p> <p>19 something I throw it in a box. If not,</p> <p>20 I don't think it's necessary to keep, I</p> <p>21 just throw it away, trash.</p> <p>22 Q. So is it fair to say that</p> <p>23 you made some determination that items</p> <p>24 that you did not retain were not</p> <p>25 important or relevant to your employment</p>	<p>1 questions concerning your employment I</p> <p>2 want to go over generally the claims</p> <p>3 that you've asserted against the</p> <p>4 American Bottling Company, okay?</p> <p>5 A. Okay.</p> <p>6 Q. My understanding is that</p> <p>7 you've asserted two claims against the</p> <p>8 American Bottling Company. One is an</p> <p>9 Ohio Whistleblower Statute claim and one</p> <p>10 relates to a COBRA notice violation, is</p> <p>11 that correct?</p> <p>12 A. I didn't hear the first</p> <p>13 part.</p> <p>14 Q. Sure. And I did notice you</p> <p>15 put your hand up to your ear, please</p> <p>16 let me know if at any time you cannot</p> <p>17 hear the questions I've asked you. If</p> <p>18 you don't let me know that I'll</p> <p>19 certainly assume you have so I'd like to</p> <p>20 make sure we're on the same page.</p> <p>21 A. Sure.</p> <p>22 Q. And I do sometimes talk</p> <p>23 softly, so please let me know.</p> <p>24 A. Absolutely.</p> <p>25 Q. Fair?</p>
Page 19	Page 21
<p>1 at the American Bottling Company?</p> <p>2 A. Say that again, please.</p> <p>3 Q. Sure. Is it fair to say</p> <p>4 then documents that you chose not to</p> <p>5 retain and that you chose to throw away</p> <p>6 as trash were not important to your</p> <p>7 employment at the American Bottling</p> <p>8 Company?</p> <p>9 A. You could say that. I kept</p> <p>10 whatever I thought that I should keep.</p> <p>11 Q. And how did you decide what</p> <p>12 documents to provide to your counsel</p> <p>13 from that storage box?</p> <p>14 A. I just give him everything.</p> <p>15 Q. And I didn't ask you this so</p> <p>16 I'll ask you now, were there any other</p> <p>17 locations that you maintained documents</p> <p>18 relating to your employment at the</p> <p>19 American Bottling Company other than the</p> <p>20 storage box?</p> <p>21 A. No.</p> <p>22 Q. Do you have an e-mail</p> <p>23 account that you use?</p> <p>24 A. No.</p> <p>25 Q. Before we get into detail</p>	<p>1 A. Fair enough.</p> <p>2 Q. All right. My understanding</p> <p>3 of the claims that you've asserted in</p> <p>4 this case are that you've asserted two</p> <p>5 claims, one is an Ohio Whistleblower</p> <p>6 Statute claim and one is a COBRA notice</p> <p>7 violation claim, is that correct?</p> <p>8 A. Correct.</p> <p>9 Q. You have no other claims</p> <p>10 asserted against the American Bottling</p> <p>11 Company in this litigation, correct?</p> <p>12 A. At this time, no.</p> <p>13 Q. Is there a time that you</p> <p>14 anticipate adding additional claims to</p> <p>15 your lawsuit against the American</p> <p>16 Bottling Company?</p> <p>17 A. Not that I know of. If my</p> <p>18 attorney suggests anything I'm open to</p> <p>19 any legal advice, counsel.</p> <p>20 Q. So let's talk in a little</p> <p>21 bit more detail about the two claims</p> <p>22 that you've asserted against the</p> <p>23 American Bottling Company. I'd like to</p> <p>24 talk first about the whistleblower</p> <p>25 claim, okay?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 22	Page 24
<p>1 A. Okay.</p> <p>2 Q. Your claim essentially is</p> <p>3 that you engaged in certain conduct and</p> <p>4 ABC took certain actions as a result of</p> <p>5 that conduct, is that generally correct?</p> <p>6 A. Define conduct.</p> <p>7 Q. We'll get into the definition</p> <p>8 of conduct, we're going to drill down a</p> <p>9 little bit more but I'm looking globally</p> <p>10 right now. Essentially your</p> <p>11 whistleblower claim is you engaged in</p> <p>12 some conduct, as a result of that</p> <p>13 conduct ABC took some action?</p> <p>14 A. I'm not understanding</p> <p>15 conduct.</p> <p>16 Q. Well, I believe you made</p> <p>17 some kind of complaint, and we'll drill</p> <p>18 down again and get into the specifics of</p> <p>19 the complaint, but just in a very</p> <p>20 general level your whistleblower act</p> <p>21 claim is that you made a complaint and</p> <p>22 then ABC took some kind of action in</p> <p>23 retaliation for that complaint, is that</p> <p>24 it?</p> <p>25 A. Yes.</p>	<p>1 A. You said you would like to</p> <p>2 say vehicle what?</p> <p>3 Q. Issue.</p> <p>4 A. Okay.</p> <p>5 Q. So you'll understand when I</p> <p>6 say vehicle issue, that's the complaint</p> <p>7 I'm referring to?</p> <p>8 A. Yes.</p> <p>9 Q. To whom, and let's start</p> <p>10 with a list, we'll, again, drill down</p> <p>11 into details, but to whom did you</p> <p>12 complain about the vehicle issue?</p> <p>13 A. At what time?</p> <p>14 Q. Any time.</p> <p>15 A. Ryan Cozart, John Taraba,</p> <p>16 Mike Bobal and OSHA agency and Agent</p> <p>17 Janell and Agent Joe Warner.</p> <p>18 Q. And you referred to agent</p> <p>19 Janell and Agent Joe Warner, are those</p> <p>20 individuals at OSHA?</p> <p>21 A. Yes.</p> <p>22 Q. Anyone else that you</p> <p>23 complained to about the vehicle issue?</p> <p>24 A. Just the in-house and agency.</p> <p>25 Q. And when we say in-house</p>
Page 23	Page 25
<p>1 Q. Specifically your claim is</p> <p>2 that you made a complaint concerning the</p> <p>3 operation of powered industrial vehicles</p> <p>4 without operative horns or lights and</p> <p>5 with slipping brakes, engine stalls or</p> <p>6 cut-offs without warning and fluid</p> <p>7 leaks, is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Any other complaint that</p> <p>10 you're claiming forms the basis of your</p> <p>11 whistleblower claim in this case?</p> <p>12 A. No.</p> <p>13 Q. Is it okay if we -- since</p> <p>14 that's a lot of words, is it okay if we</p> <p>15 refer to that complaint as the vehicle</p> <p>16 issue?</p> <p>17 A. If you like.</p> <p>18 Q. But if I use the term the</p> <p>19 vehicle issue you'll understand that I'm</p> <p>20 referring to your complaint concerning</p> <p>21 the operation of powered industrial</p> <p>22 vehicles without operative horns or</p> <p>23 lights and with slipping brakes, engine</p> <p>24 stalls or cut-offs without warning and</p> <p>25 fluid leaks?</p>	<p>1 you're referring to Ryan Cozart, John</p> <p>2 Taraba and Mike Bobal, is that right?</p> <p>3 A. Yes, even though Mike Bobal</p> <p>4 is off-site.</p> <p>5 Q. You used the term in-house,</p> <p>6 any other in-house individuals that you</p> <p>7 complained to about the vehicle issue?</p> <p>8 A. Just those authorities.</p> <p>9 Q. And, again, those authorities</p> <p>10 being the individuals you identified at</p> <p>11 the American Bottling Company as well as</p> <p>12 OSHA, is that right?</p> <p>13 A. Yes.</p> <p>14 Q. With regards to Mr. Taraba,</p> <p>15 and Mr. Taraba is the distribution</p> <p>16 manager of the Youngstown facility for</p> <p>17 the American Bottling Company, is that</p> <p>18 right?</p> <p>19 A. Vending warehouse -- vending</p> <p>20 manager, warehouse manager.</p> <p>21 Q. And you're looking at a</p> <p>22 business card you just pulled out of</p> <p>23 your wallet, is that Mr. Taraba's</p> <p>24 business card?</p> <p>25 A. Yes.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 26	Page 28
<p>1 Q. And I believe you produced a 2 copy of that in discovery, correct? 3 A. Yes. 4 Q. When did you complain to Mr. 5 Taraba about the vehicle issue? 6 A. Taraba? Let's see, August 7 11th, 2010. 8 Q. Any other time you complained 9 to Mr. Taraba about the vehicle issue? 10 A. Back in 2007. 11 Q. And the 2007 complaint is 12 not part of your litigation, is that 13 right? 14 A. That's true. 15 Q. And that's a good 16 clarification, so at this point the 17 subject of this litigation or for 18 purposes of this litigation, I should 19 say, you're speaking of an August 11th, 20 2010 complaint to Mr. Taraba, correct? 21 A. That's correct. 22 Q. What form did your complaint 23 to Mr. Taraba take? And Taraba is 24 T A R A B A. 25 A. Is that a question?</p>	<p>1 of August 11th, 2010? 2 A. Not to Taraba, no. 3 Q. Did you identify any specific 4 vehicles in your written complaint to 5 Mr. Taraba of August 11th, 2010? 6 A. I believe so. 7 Q. Do you recall what those 8 vehicles were? 9 A. I know they was gas fork 10 truck towmotors. 11 Q. Anything more specific about 12 which gas truck fork towmotors -- excuse 13 me, I inverted that, gas fork truck 14 towmotors? 15 A. I think I had some numbers, 16 reference numbers. 17 Q. Anything else that you recall 18 -- strike the question, please. 19 Anything else that you said to Mr. 20 Taraba in your written complaint 21 concerning the vehicle issue of August 22 11, 2010? 23 A. Nothing else to Taraba. 24 Q. Do you know whether Mr. 25 Taraba told anyone else at the American</p>
Page 27	Page 29
<p>1 Q. Yes. What form did your 2 complaint to Mr. Taraba take? 3 A. Handwritten. 4 Q. Any other form of complaint 5 to Mr. Taraba? 6 A. Not to Taraba, no. 7 Q. And when I say form of 8 complaint, I'm referring again to the 9 vehicle issue, you understood that, 10 correct? 11 A. Absolutely. 12 Q. What did you tell Mr. Taraba 13 about the vehicle issue in your written 14 complaint? 15 A. Health and safety issues 16 regarding substandard equipment, need of 17 maintenance, unsafe, no horns, no 18 lights, brake issues, maybe electronic 19 starting. I said -- I think my words 20 were something like stall and cut-off or 21 something. The electronic starting, I 22 just said that today, but I think my 23 exact words were stall, cut-off engine. 24 Q. Anything else that you said 25 to Mr. Taraba in your written complaint</p>	<p>1 Bottling Company that you complained? 2 A. You'd have to ask him. 3 Q. So the answer to my question 4 is no, you don't know whether he told 5 anyone at the American Bottling Company 6 that you had complained? 7 A. I don't have any knowledge. 8 I can assume. 9 Q. So, again, the answer to my 10 question is no? 11 A. That's right. 12 Q. Do you know whether Mr. 13 Taraba had authority to lay you off? 14 A. I assume. 15 Q. Do you have any personal 16 knowledge that Mr. Taraba had the 17 authority to lay you off? 18 A. I believe so. 19 Q. What's that personal 20 knowledge based on? 21 A. Him being a manager. 22 Q. So you're assuming that 23 because he's a manager he had authority 24 to lay you off, is that correct? 25 A. Unless corporate HR advised</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 30	Page 32
<p>1 him otherwise.</p> <p>2 Q. Again, my question was, so</p> <p>3 you're assuming because Mr. Taraba was a</p> <p>4 manager he had authority to lay you off,</p> <p>5 is that correct?</p> <p>6 A. As a manager if he has</p> <p>7 authority to lay off, yes.</p> <p>8 Q. And that's your assumption,</p> <p>9 correct?</p> <p>10 A. I assume so, yes, he's --</p> <p>11 Q. Do you know whether Mr.</p> <p>12 Taraba had authority to terminate your</p> <p>13 employment?</p> <p>14 A. I'm not sure.</p> <p>15 Q. Do you know whether Mr.</p> <p>16 Taraba made a decision to lay you off?</p> <p>17 A. Say that again, please.</p> <p>18 Q. Do you know whether Mr.</p> <p>19 Taraba, in fact, made a decision to lay</p> <p>20 you off?</p> <p>21 A. You'd have to ask him. I</p> <p>22 don't know if he made a decision or he</p> <p>23 was told.</p> <p>24 Q. So do you know whether Mr.</p> <p>25 Taraba participated in any decision to</p>	<p>1 ask you that?</p> <p>2 A. I believe it's Cozart.</p> <p>3 MR. ROSSI: Do you have a</p> <p>4 spelling for that?</p> <p>5 Q. Well, I thought it was</p> <p>6 Cozart so perhaps I read that</p> <p>7 incorrectly. I would think it's</p> <p>8 C O Z A R T, if it's Cozart, it's in</p> <p>9 your initial disclosures. Thank you.</p> <p>10 When did you complain to -- we'll use</p> <p>11 Ryan for ease, when did you complain to</p> <p>12 Ryan about the vehicle issue?</p> <p>13 A. I complained to the acting</p> <p>14 supervisor, Ryan Cozart, August 11th,</p> <p>15 2010.</p> <p>16 Q. In what form did your</p> <p>17 complaint to Ryan take?</p> <p>18 A. Verbal and written.</p> <p>19 Q. Well, let's start with the</p> <p>20 verbal complaint about the vehicle</p> <p>21 issue. What did you say to Ryan</p> <p>22 verbally about the vehicle issue?</p> <p>23 A. In conversation and</p> <p>24 discussing my dialogue, our dialogue, I</p> <p>25 stated that the problems again with the</p>
Page 31	Page 33
<p>1 lay you off?</p> <p>2 A. I know he subscribed his</p> <p>3 signature to a document with layoff.</p> <p>4 Other than that, you'd have to ask him.</p> <p>5 Q. Do you know whether Mr.</p> <p>6 Taraba made a decision to terminate your</p> <p>7 employment?</p> <p>8 A. Again, you'd have to ask</p> <p>9 him. I don't know where his authority</p> <p>10 is in the company.</p> <p>11 Q. Do you know whether Mr.</p> <p>12 Taraba participated in a decision to</p> <p>13 terminate your employment?</p> <p>14 A. I believe he did.</p> <p>15 Q. What's that based on?</p> <p>16 A. Him being a manager, agent</p> <p>17 of the company.</p> <p>18 Q. So, again, you're assuming</p> <p>19 because he's a manager he participated</p> <p>20 in the decision to terminate your</p> <p>21 employment?</p> <p>22 A. You could say that.</p> <p>23 Q. You also indicated that you</p> <p>24 complained to Ryan Cozart, C O Z A --</p> <p>25 actually is it Cozart or Cozant, let me</p>	<p>1 fork trucks, I'd see the lights aren't</p> <p>2 working, I see there's oil on the floor,</p> <p>3 I see they're stalling again,</p> <p>4 substandard maintenance issues, again,</p> <p>5 consistent, before I returned to work</p> <p>6 they need corrected and be addressed.</p> <p>7 Q. You just referred to the</p> <p>8 items that you complained to Mr. -- to</p> <p>9 Ryan about as substandard maintenance</p> <p>10 issues. So is it your understanding</p> <p>11 that the items you're complaining about</p> <p>12 related to the maintenance of the</p> <p>13 vehicles?</p> <p>14 A. Say that again, please.</p> <p>15 Q. Sure. You just referred to</p> <p>16 substandard maintenance issues that you</p> <p>17 spoke to Ryan about. So is it then</p> <p>18 your understanding that these issues you</p> <p>19 were raising, the vehicle issues, were</p> <p>20 maintenance issues?</p> <p>21 A. Yeah, the discussion was</p> <p>22 safety or unsafe, to both public and</p> <p>23 employees as other vendors frequent the</p> <p>24 facility.</p> <p>25 Q. Anything else that you said</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 34	Page 36
<p>1 to Ryan in your verbal complaint of 2 August 11, 2010 about the vehicle issue? 3 A. Just that dialogue and I 4 wrote him a note the same, left him a 5 note on the clipboard, that's it. 6 Q. Was anyone else present when 7 you spoke with Ryan about the vehicle 8 issue on August 11, 2010? 9 A. What do you mean present? 10 Q. Was anyone else within five 11 feet of your conversation with Ryan on 12 August 11, 2010 about the vehicle issue? 13 A. Not that I'm aware of. 14 Q. About how long would you say 15 that conversation with Ryan was on 16 August 11, 2010 about the vehicle issue? 17 A. Minutes. 18 Q. Did Ryan say anything to you 19 in response to your complaint about the 20 vehicle issue on August 11, 2010? 21 A. Just pretty much, yeah, yeah, 22 yeah. 23 Q. Do you have any specific 24 recollection of what Ryan said to you in 25 response to your complaint about the</p>	<p>1 Pending change I guess it's fair to say 2 at one time 4:00. 3 Q. Did you ever start at 9:00 4 in the morning? 5 A. No. 6 Q. And using 4:00, would you 7 then work an eight-hour shift starting 8 at 4:00? 9 A. They're supposed to be 10 eight-hour shifts Monday through Friday. 11 Q. Not counting overtime? 12 A. Not counting overtime, breaks 13 are paid. 14 Q. So generally, if we're not 15 discussing overtime, you were working 16 4:00 p.m., starting at 4:00 p.m. and 17 then working approximately an eight-hour 18 shift? 19 A. Say that again, please. 20 Q. Sure. Not discussing 21 overtime right now, generally you were 22 starting approximately 4:00 p.m. and 23 working an eight-hour shift Monday 24 through Friday? 25 A. Monday through Friday unless</p>
Page 35	Page 37
<p>1 vehicle issue on August 11, 2010? 2 A. He just appeared to blow me 3 off. 4 Q. When you say he appeared to 5 blow you off, what was Ryan doing that 6 you interpreted as blowing you off? 7 A. Just sitting on a forklift, 8 I was out on the floor in the warehouse 9 and no conflict, just civil discussion 10 on the floor and that's it. 11 Q. You said sitting on a 12 forklift, was Ryan on a forklift? 13 A. Yes. 14 Q. And you approached him while 15 he was on the forklift? 16 A. Yes. Yes, he's the acting 17 supervisor when John is not there. 18 Q. You worked the second shift 19 at the American Bottling Company 20 Youngstown facility? 21 A. I assume so, they don't ever 22 refer to shifts. 23 Q. What time did your shift 24 start? 25 A. They changed several times.</p>	<p>1 they changed the schedule or you had to 2 come in early for something. 3 Q. Let's talk about the written 4 complaint that you gave to Ryan, that 5 was the same day, correct, August 11, 6 2010? 7 A. Yes. 8 Q. What did you place in 9 writing to Ryan on August 11, 2010? 10 A. Unsafe fork trucks, 11 towmotors, tell John to be aware of 12 this, maintenance, same problem 13 continued again as before, in the past, 14 ongoing. 15 Q. You mentioned same problem as 16 continued before ongoing, are you 17 referring to the complaint you made in 18 2007? 19 A. Referring to multiple times. 20 It was always some type of industrial 21 fork truck problem, maintenance, safety 22 issues. I mean, the workers sometimes 23 have to hit the battery with a steel 24 pole and hammer to start them. 25 Q. I'm referring to the vehicle</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 38	Page 40
<p>1 issue though.</p> <p>2 A. Yeah, that's right.</p> <p>3 Q. So the specific complaint you</p> <p>4 were making on August 11, 2010 was</p> <p>5 something that had been ongoing for a</p> <p>6 period of time?</p> <p>7 A. Repeat, yes. Here and</p> <p>8 there.</p> <p>9 Q. Then you said a moment ago</p> <p>10 that in your written complaint to Mr.</p> <p>11 Cozart of August 11, 2010 that you</p> <p>12 mentioned that he should let or tell</p> <p>13 John to be aware of the problem, is</p> <p>14 that right?</p> <p>15 A. Yeah, just a reminder, the</p> <p>16 note was definitely a reminder. Because</p> <p>17 when John is not there Ryan is the</p> <p>18 acting supervisor in charge, open,</p> <p>19 close, lock, the higher rate of pay,</p> <p>20 he's the authority in place of John.</p> <p>21 Q. You testified earlier that</p> <p>22 you issued a written complaint to Mr.</p> <p>23 Taraba on that same date of August 11,</p> <p>24 2010, approximately when in relation to</p> <p>25 the written complaint you made to Mr.</p>	<p>1 clipboard, is that right?</p> <p>2 A. There's a clipboard, yes.</p> <p>3 Q. So you placed the written</p> <p>4 complaint to Mr. Cozart of August 11,</p> <p>5 2010 on the clipboard that Ryan leaves</p> <p>6 notes for for John Taraba, is that</p> <p>7 right?</p> <p>8 A. That's right.</p> <p>9 Q. And in addition to that you</p> <p>10 also completed a written complaint to</p> <p>11 Mr. Taraba that you placed where?</p> <p>12 A. On his desk.</p> <p>13 Q. Mr. Taraba's desk?</p> <p>14 A. Yes. That's the standard</p> <p>15 pattern and practice through all my</p> <p>16 experience in 2007.</p> <p>17 MR. ROSSI: Wait for a question.</p> <p>18 Q. I'm not sure, I'm not</p> <p>19 understanding, you're using a term</p> <p>20 called pattern and practice, I'm not</p> <p>21 understanding that term, what do you</p> <p>22 mean by that?</p> <p>23 A. That's the usual course of</p> <p>24 business, leave notes for John.</p> <p>25 Q. That's the usual course of</p>
Page 39	Page 41
<p>1 Cozart of that same date did you make</p> <p>2 the complaint to Mr. Taraba?</p> <p>3 A. About the same time.</p> <p>4 Q. Was it simultaneous, were you</p> <p>5 writing two letters at the same time?</p> <p>6 A. Yeah.</p> <p>7 Q. One to Ryan and one to John?</p> <p>8 A. Yes, I sat down and grabbed</p> <p>9 a paper and pen and started writing.</p> <p>10 Q. Well, if you were leaving</p> <p>11 Mr. Taraba a note why did you also</p> <p>12 leave one for Mr. Cozart?</p> <p>13 A. To remind him, plus he's the</p> <p>14 acting supervisor.</p> <p>15 Q. To remind him of what?</p> <p>16 A. The power and practice.</p> <p>17 What it is is when Ryan is in charge</p> <p>18 there's a clipboard that he leaves his</p> <p>19 notes for John and in good faith and a</p> <p>20 courtesy, double courtesy in the</p> <p>21 interest of safety I just provided him a</p> <p>22 reminder.</p> <p>23 Q. And I think you actually</p> <p>24 testified earlier that you placed your</p> <p>25 written complaint to Mr. Cozart on that</p>	<p>1 your business to leave notes for John?</p> <p>2 A. John's policy.</p> <p>3 Q. And in your experience, times</p> <p>4 you've left notes for Mr. Taraba on his</p> <p>5 desk, he's responded to those notes to</p> <p>6 you?</p> <p>7 A. Sometimes.</p> <p>8 Q. Can you think of a specific</p> <p>9 occasion when he didn't respond to the</p> <p>10 note that you left for him on his desk?</p> <p>11 A. Vacation issues, wage issues,</p> <p>12 overtime issues. He's hit or miss, got</p> <p>13 to remind him a lot.</p> <p>14 Q. You testified about some</p> <p>15 categories. I'm looking for a specific</p> <p>16 occasion that you recall leaving Mr.</p> <p>17 Taraba a note and that he did not</p> <p>18 respond to you?</p> <p>19 A. Well, a specific occasion</p> <p>20 would be maybe in 2007 misclassifying me</p> <p>21 as seasonal, wrong pay rate, wrong</p> <p>22 status.</p> <p>23 Q. Are those different items or</p> <p>24 are they all part of the classification</p> <p>25 seasonal?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 42	Page 44
<p>1 A. You'd have to ask him. I 2 was hired as a warehouse employee. Just 3 the wrong pay rate was remedied upon 4 grievance in 2008, 2007, the end of 2007 5 going into January of 2008. Chris 6 Colello, Teamsters 377 remedied. 7 Q. I'm sorry, he remedied what? 8 A. Paying me my wages. 9 Q. Anything else that you placed 10 in your written complaint of August 11, 11 2010 to Mr. Cozart? 12 A. Say that again, please. 13 Q. Anything else that you placed 14 in your written complaint of August 11, 15 2010 to Mr. Cozart? 16 A. I think I covered it. 17 Q. You referred to Mr. Cozart a 18 number of times as an acting supervisor 19 today, do you recall that? 20 A. Yes. 21 Q. You didn't actually consider 22 Mr. Cozart to be a supervisor though, 23 correct? 24 A. Define supervisor. 25 Q. In your terms you didn't</p>	<p>1 "working supervisor" (Ryan Cozart) on 2 August 5th, 2008, but this CBA defined 3 "supervisor" got out of line regarding 4 Section 2 of Article 17 conduct," and 5 then it goes on. Did I read that 6 correctly? 7 A. Appears so. 8 Q. You then in the next 9 paragraph, I guess it's fair to say 10 third paragraph that starts under 11 Section 1 of Article 1, CBA, do you see 12 that? 13 A. Where are you at? 14 Q. You have a line that says 15 "despite the above." 16 A. Oh, yes, yes. 17 Q. And then there's a paragraph 18 underneath it? 19 A. Yes. 20 Q. Okay, great. Is it fair to 21 say that you're disputing that Mr. 22 Cozart is a supervisor for purposes of 23 the collecting bargaining agreement in 24 this correspondence? 25 A. I never got an answer to</p>
Page 43	Page 45
<p>1 consider Mr. Cozart to actually be a 2 supervisor for the American Bottling 3 Company, is that right? 4 A. He's a supervising authority 5 at all times at nights. 6 - - - - - 7 (Thereupon, Deposition 8 Exhibit-7 was marked for 9 purposes of identification.) 10 - - - - - 11 Q. Handing you what's been 12 marked Deposition Exhibit 7, this 13 appears to be a handwritten note dated 14 August 6, 2008 addressed to John G. 15 Lesicko, L E S I C K O -- 16 A. Yes. 17 Q. -- Teamsters Local 377 from 18 Robert Potts. Is this your handwriting, 19 sir? 20 A. Yes. 21 Q. In this correspondence to the 22 union you say, "In short, I brought a 23 concern upon my ergonomic issue to the 24 attention of a supervisory member of 25 management or who some others call a</p>	<p>1 this. 2 Q. I'm not asking about whether 3 you got an answer. I'm asking, is it 4 fair to say in this paragraph that 5 you're disputing that Mr. Cozart is a 6 supervisor as defined in the term of the 7 collective bargaining agreement in 8 existence at that time? 9 A. No. It says he's a 10 supervisor. It says, "I brought the 11 concern upon my ergonomic issue to the 12 attention of a supervisory member of 13 management." 14 Q. Again, looking at the next 15 paragraph of the letter starting, "Under 16 Section 1 of Article 1, CBA, 17 "supervisory" is an excluded position 18 for Teamsters membership of Local 377 19 and any supervisory employee as a member 20 of the union conflicts with Article II, 21 Sections 1-2 of the IBT International 22 Brotherhood of Teamsters Constitution 23 adopted by the 27th International 24 Convention June 26 through 30, 2006." 25 Did I read that correctly?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 46	Page 48
<p>1 A. Yes.</p> <p>2 Q. So, in other words, you are</p> <p>3 stating to your union representative</p> <p>4 that as the term supervisor is defined</p> <p>5 in the collective bargaining agreement</p> <p>6 those individuals are not members of the</p> <p>7 Teamsters, right?</p> <p>8 A. I believe there's a conflict,</p> <p>9 yes.</p> <p>10 Q. Do you know, was Mr. Cozart</p> <p>11 a Teamster, do you know?</p> <p>12 A. I only assume. We're all</p> <p>13 Teamsters, supposed to be. I don't know</p> <p>14 any private information.</p> <p>15 Q. Do you know whether Ryan</p> <p>16 passed your complaint along to any</p> <p>17 member of ABC Youngstown management?</p> <p>18 A. You'd have to ask him, I</p> <p>19 don't know.</p> <p>20 Q. Do you know whether, assuming</p> <p>21 Mr. Cozart did pass your complaint</p> <p>22 along, whether he identified you as the</p> <p>23 individual complaining?</p> <p>24 A. I'm sure he has because I</p> <p>25 was there and it was me talking to him</p>	<p>1 had a disagreement with him before and</p> <p>2 he sent me home before, despite of just</p> <p>3 regular work schedules, you go, he goes,</p> <p>4 that person goes. He's the boss.</p> <p>5 Q. I'm sorry, go ahead.</p> <p>6 A. He's the boss.</p> <p>7 Q. And what date did he send</p> <p>8 you home after you had an interaction</p> <p>9 with him?</p> <p>10 A. I can't recall.</p> <p>11 Q. Did you lose any pay the day</p> <p>12 that he sent you home?</p> <p>13 A. Yeah, if he sent me home I</p> <p>14 didn't get a complete eight-hour day,</p> <p>15 yes.</p> <p>16 Q. Do you recall that being the</p> <p>17 case?</p> <p>18 A. Of course, I didn't get paid</p> <p>19 for it.</p> <p>20 Q. What time was left on your</p> <p>21 eight-hour shift when Mr. Cozart sent</p> <p>22 you home on the date you can't recall?</p> <p>23 A. I can't recall.</p> <p>24 Q. Do you know whether Mr.</p> <p>25 Cozart placed any information in your</p>
Page 47	Page 49
<p>1 in dialogue. So I would say yes, I</p> <p>2 would say he'd have to say me.</p> <p>3 Q. I understand that you believe</p> <p>4 that it should have occurred. I'm</p> <p>5 asking, do you have any personal</p> <p>6 knowledge of whether, assuming Mr.</p> <p>7 Cozart did pass your complaint along to</p> <p>8 ABC Youngstown management, he identified</p> <p>9 you as the person complaining?</p> <p>10 A. Again, I can't answer for</p> <p>11 him, you have to talk to him.</p> <p>12 Q. So you don't know whether he</p> <p>13 did or not?</p> <p>14 A. I don't know what he did.</p> <p>15 Q. Do you know whether Mr.</p> <p>16 Cozart had authority to discipline you?</p> <p>17 A. I assume he did.</p> <p>18 Q. But you don't know?</p> <p>19 A. He sent me home in the past.</p> <p>20 Q. What are you referring to?</p> <p>21 A. In relation to work, eight-</p> <p>22 hour days. Two separate issues, he</p> <p>23 always let people go home when he felt</p> <p>24 certain work was done or if his</p> <p>25 authority chose to send someone home. I</p>	<p>1 personnel file relating to the date that</p> <p>2 you can't recall that Mr. Cozart sent</p> <p>3 you home?</p> <p>4 A. You'd have to ask him. I</p> <p>5 don't know what he puts in, didn't put</p> <p>6 it or if he can or can't, I don't know.</p> <p>7 Q. Do you know whether Mr.</p> <p>8 Cozart had authority to lay you off?</p> <p>9 A. Possible.</p> <p>10 Q. Do you know whether Mr.</p> <p>11 Cozart had authority to lay you off?</p> <p>12 A. I don't know, you'd have to</p> <p>13 ask him.</p> <p>14 Q. Do you know whether Mr.</p> <p>15 Cozart had authority to terminate your</p> <p>16 employment?</p> <p>17 A. I don't believe so.</p> <p>18 Q. Do you know whether Mr.</p> <p>19 Cozart made a decision at any time to</p> <p>20 lay you off?</p> <p>21 A. You have to ask him, I'm not</p> <p>22 sure.</p> <p>23 Q. Do you know --</p> <p>24 A. Don't know. Sorry.</p> <p>25 Q. Do you know whether Mr.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 50	Page 52
<p>1 Cozart participated in any decision to 2 lay you off? 3 A. I don't know. It's 4 possible. 5 Q. But you don't know? 6 A. Don't know. 7 Q. Do you know whether Mr. 8 Cozart made a decision to terminate your 9 employment? 10 A. You have to ask him. 11 Q. You don't know? 12 A. I don't know. 13 Q. Do you know whether Mr. 14 Cozart participated in the decision to 15 terminate your employment? 16 A. Don't know, you have to ask 17 him. 18 Q. You also testified that you 19 raised the vehicle issue to Mike Bobal, 20 is that right? 21 A. Yes. 22 Q. And I think you said that 23 Mr. Bobal, he's in the human resources 24 department for the American Bottling 25 Company but not located at the</p>	<p>1 Q. So, and I know this sounds 2 basic, but essentially you complained to 3 Mr. Cozart on August 11, 2010 both 4 verbally and then you left a note for 5 him as well, is that right? 6 A. That's correct. 7 Q. Then you also left a note 8 for Mr. Taraba on August 11, 2010, is 9 that right? 10 A. That's right. 11 Q. And then you sent a note to 12 Mr. Bobal on August 12, 2010 setting 13 forth the vehicle issue, is that right? 14 A. Yes. 15 Q. Did you mail the handwritten 16 report to Mr. Bobal? 17 A. Yeah, mailed him a letter. 18 Q. What time of day did you 19 mail the letter, do you recall? 20 A. I don't know. Late, late 21 day, after 4. 22 Q. Did you sign the handwritten 23 note to Mr. Bobal? 24 A. I always just like this, 25 referring to the document, Exhibit 7 you</p>
Page 51	Page 53
<p>1 Youngstown facility, is that right? 2 A. Yes, he's not local, 3 off-site. 4 Q. And when did you complain to 5 Mr. Bobal about the vehicle issue? 6 A. August 12th, 2010. 7 Q. What form did your complaint 8 to Mr. Bobal take? B O B A L. 9 A. Say that again, please. 10 Q. What form did your complaint 11 to Mr. Bobal take? 12 A. Handwritten. 13 Q. Any other form your complaint 14 to Mr. Bobal took? 15 A. No. 16 Q. So talking about your written 17 complaint to Mr. Bobal about the vehicle 18 issue, what did you say in your 19 handwritten complaint of August 12, 2010 20 to Mr. Bobal? 21 A. Pretty much the same as the 22 others. Unsafe fork trucks, horns not 23 working, lights not working, stalls, 24 cut-off, oil leaking. Same. Repeat. 25 Duplicate.</p>	<p>1 showed me, handwriting. 2 Q. I'm sorry, you always what? 3 A. Always -- when I handwrite 4 this is the same form or scratch paper 5 or whatever, I don't subscribe a 6 signature upon it. I just -- when I 7 handwrite, that's the way it is. To, 8 from. 9 Q. So you put from Robert 10 Potts -- 11 A. Yes. 12 Q. -- on the correspondence? 13 A. Yes. 14 Q. Do you know whether Mr. 15 Bobal passed along your August 12, 2010 16 correspondence to anyone at ABC 17 management? 18 A. You have to ask him, I don't 19 know. 20 Q. Do you know, assuming Mr. 21 Bobal did pass along your August 12, 22 2010 handwritten correspondence to 23 someone at ABC management, that he 24 identified you as the person providing 25 that information?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 54	Page 56
<p>1 A. Can you repeat that, please?</p> <p>2 Q. Assuming Mr. Bobal informed</p> <p>3 somebody at ABC management that he</p> <p>4 received a complaint about the</p> <p>5 Youngstown vehicle issue, do you know</p> <p>6 whether he identified you as the person</p> <p>7 who raised the issue?</p> <p>8 A. You're saying assuming, I</p> <p>9 guess I don't know, you have to ask him</p> <p>10 what he did.</p> <p>11 Q. Do you know whether Mr.</p> <p>12 Bobal had authority to discipline you?</p> <p>13 A. I don't know. I assume he</p> <p>14 does, he's a manager.</p> <p>15 Q. But you don't know?</p> <p>16 A. I don't know who's the</p> <p>17 authority locally, regionally,</p> <p>18 headquarters, Texas, Cleveland, I don't</p> <p>19 know.</p> <p>20 Q. Do you know whether Mr.</p> <p>21 Bobal had authority to lay you off?</p> <p>22 A. It's possible. It's fair</p> <p>23 enough to say he does.</p> <p>24 Q. What I'm asking is, do you</p> <p>25 have any personal knowledge that Mr.</p>	<p>1 Q. What's possible, that you're</p> <p>2 assuming it or that he had authority?</p> <p>3 A. He's a manager, member of</p> <p>4 the management team, you could say he</p> <p>5 has authority to make a decision,</p> <p>6 company decision, layoff.</p> <p>7 Q. And I'm asking whether you</p> <p>8 know that to be a factually accurate</p> <p>9 statement that he does have authority to</p> <p>10 lay you off?</p> <p>11 A. You'd have to ask him.</p> <p>12 Q. You don't know?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you know whether Mr.</p> <p>15 Bobal made any decision to lay you off?</p> <p>16 A. I don't know if he's the</p> <p>17 solo, I don't know if he's directed, you</p> <p>18 have to ask him, I don't know.</p> <p>19 Q. Do you know whether he</p> <p>20 participated in any way concerning the</p> <p>21 decision to lay you off?</p> <p>22 A. Yeah, he participated.</p> <p>23 Q. What's that based on?</p> <p>24 A. A member of the management,</p> <p>25 member of the company.</p>
Page 55	Page 57
<p>1 Bobal had authority to lay you off?</p> <p>2 A. Personal knowledge, I don't</p> <p>3 know if he did or not.</p> <p>4 Q. And, again, all the questions</p> <p>5 I'm asking today, I'm looking for your</p> <p>6 personal knowledge, okay?</p> <p>7 A. Repeat the question, please.</p> <p>8 Q. All the questions I'm asking</p> <p>9 you today, I'm looking for your personal</p> <p>10 knowledge, okay?</p> <p>11 A. Okay. The other question</p> <p>12 before you said personal.</p> <p>13 Q. Sure. Do you know whether</p> <p>14 Mr. Bobal had authority to lay you off?</p> <p>15 A. I believe so. I don't know.</p> <p>16 Q. When you say I believe so,</p> <p>17 you're making an assumption that he had</p> <p>18 authority, correct?</p> <p>19 A. He's a manager. I can in</p> <p>20 good faith say yes, he has authority.</p> <p>21 Q. And, again, your basis for</p> <p>22 your statement is that you assume</p> <p>23 because he's a manager he has authority</p> <p>24 to lay you off, is that correct?</p> <p>25 A. It's possible.</p>	<p>1 Q. So, again, you're assuming</p> <p>2 because he's a member of management,</p> <p>3 member of company, he participated in a</p> <p>4 decision to lay you off?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know whether Mr.</p> <p>7 Bobal made a decision to terminate your</p> <p>8 employment?</p> <p>9 A. I don't know if he's the</p> <p>10 authority to terminate or someone tells</p> <p>11 him or directs him. It's a corporation.</p> <p>12 I don't know who the board of directors</p> <p>13 or anybody is. I don't know who's the</p> <p>14 authority.</p> <p>15 Q. So the answer to my question</p> <p>16 is no, you don't know whether Mr. Bobal</p> <p>17 made the decision to terminate your</p> <p>18 employment?</p> <p>19 A. No, I don't know who is the</p> <p>20 actual individual agent, company agent.</p> <p>21 Q. So similarly you don't know</p> <p>22 whether Mr. Bobal participated in any</p> <p>23 decision to terminate your employment?</p> <p>24 A. Sure, he participated.</p> <p>25 Q. What's that based on?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 58	Page 60
<p>1 A. Member of the management.</p> <p>2 Q. So, again, it's an assumption</p> <p>3 because he's a member of management he</p> <p>4 participated in the decision to</p> <p>5 terminate your employment?</p> <p>6 A. Of course.</p> <p>7 Q. Of course what, that you're</p> <p>8 making an assumption?</p> <p>9 A. That he's a member of</p> <p>10 management with authority.</p> <p>11 Q. And that's really what I'm</p> <p>12 trying to get at, okay. My question</p> <p>13 is, do you know whether in fact Mr.</p> <p>14 Bobal, in fact, participated in a</p> <p>15 decision to terminate your employment?</p> <p>16 A. Absolutely he participated.</p> <p>17 Q. And how do you know that,</p> <p>18 what fact are you basing that on?</p> <p>19 A. He's employed as an HR</p> <p>20 assistant.</p> <p>21 Q. So again --</p> <p>22 A. Or associate.</p> <p>23 Q. I apologize. Were you</p> <p>24 finished?</p> <p>25 A. Go ahead.</p>	<p>1 document that we received from your</p> <p>2 counsel as part of your production in</p> <p>3 this case. It's a multipage document</p> <p>4 with handwritten notes on it and I'll</p> <p>5 tell you that the front page was an</p> <p>6 envelope and the subsequent pages were</p> <p>7 inside the envelope. My question for</p> <p>8 you is, do you recall providing this</p> <p>9 information to the American Bottling</p> <p>10 Company in discovery?</p> <p>11 A. Yes.</p> <p>12 Q. There appears to be some</p> <p>13 highlights on the document, we had these</p> <p>14 photocopied in color. My understanding</p> <p>15 is the highlighted portions were things</p> <p>16 that you yourself highlighted, is that</p> <p>17 correct?</p> <p>18 A. Sure.</p> <p>19 Q. On the first page of the</p> <p>20 document you've entitled it -- well, it</p> <p>21 appears to say in your handwriting,</p> <p>22 "Miscellaneous notes/reports, some</p> <p>23 examples of notes/reports. This is how</p> <p>24 all the workers communicate with</p> <p>25 supervisor John Taraba." And then you</p>
Page 59	Page 61
<p>1 Q. So, again, you're assuming</p> <p>2 because he's in human resources he</p> <p>3 participated in the decision to</p> <p>4 terminate your employment?</p> <p>5 A. He's a member of the</p> <p>6 American Bottling Company, he's got</p> <p>7 authority.</p> <p>8 Q. Mr. Potts, we can sit here</p> <p>9 all day and go back and forth but my</p> <p>10 question is really simple. I'm just</p> <p>11 asking, do you have personal knowledge,</p> <p>12 not an assumption because he's in</p> <p>13 management or an assumption because he's</p> <p>14 in HR, but whether you, in fact, have</p> <p>15 any personal knowledge that Mr. Bobal</p> <p>16 participated in a decision to terminate</p> <p>17 your employment?</p> <p>18 A. Personally, no.</p> <p>19 - - - - -</p> <p>20 (Thereupon, Deposition</p> <p>21 Exhibit-8 was marked for</p> <p>22 purposes of identification.)</p> <p>23 - - - - -</p> <p>24 Q. Handing you what's been</p> <p>25 marked Deposition Exhibit 8, this is a</p>	<p>1 go on. Is that your handwriting?</p> <p>2 A. Yes.</p> <p>3 Q. And then flipping through the</p> <p>4 document it looks like there are a</p> <p>5 couple of items in here, one appears to</p> <p>6 relate to floating holidays you were</p> <p>7 requesting and one appears to relate to</p> <p>8 payment of sick days, is that right?</p> <p>9 A. Notes on a copy of a payroll</p> <p>10 check, sick days, undated correspondence</p> <p>11 from John, yeah, yeah, sure.</p> <p>12 Q. And the handwriting on that</p> <p>13 second page looks like a note from you</p> <p>14 to Mr. Taraba, October 8, 2008. At the</p> <p>15 bottom portion of that page do you</p> <p>16 recognize that handwriting to be John</p> <p>17 Taraba's?</p> <p>18 A. It appears to be.</p> <p>19 Q. Second page -- excuse me,</p> <p>20 third page of the exhibit, Deposition</p> <p>21 Exhibit 8, do you recognize that</p> <p>22 handwriting to be Mr. Taraba's? Third</p> <p>23 page, sir.</p> <p>24 A. This one?</p> <p>25 Q. Yes. Correct. I didn't</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 62	Page 64
<p>1 realize you had taken it apart, yes. 2 A. Appears to be. 3 - - - - - 4 (Thereupon, Deposition 5 Exhibit-9 was marked for 6 purposes of identification.) 7 - - - - - 8 Q. Handing you what's been 9 marked Deposition Exhibit 9, do you know 10 what this document is? 11 A. Yes, it's a copy of two 12 receipts. 13 Q. Do you understand these 14 receipts to relate to -- well, strike 15 the question, please. My understanding 16 of this document is that this is -- 17 these are receipts from the post office 18 in Warren, Ohio concerning a certified 19 mailing from you to Mr. Bobal in Maple 20 Heights on August 12, 2010, is that 21 right? 22 A. It's a certificate of 23 mailing. 24 Q. And my question is, my 25 understanding, you can tell me if I'm</p>	<p>1 Exhibit 9 are the receipts for the 2 written correspondence you sent to Mr. 3 Bobal on August 12, 2010 concerning the 4 vehicle issue? 5 A. Appears to be, yes. 6 Q. Well, I'm not asking you 7 what it appears to be, I'm asking you 8 is that a fact? 9 A. Yes. 10 Q. Do you recall sending Mr. 11 Bobal any other communication around 12 that time? 13 A. Yes, I sent him other stuff, 14 of course. 15 Q. What other stuff are you 16 referring to? 17 A. What do you mean? 18 Q. You said you sent him other 19 stuff -- 20 A. Yeah. 21 Q. -- around that time, what 22 other stuff are you referring to? 23 A. I sent him a computer typed 24 note or letter, correspondence, 25 regarding payroll.</p>
Page 63	Page 65
<p>1 right or wrong, is that these receipts 2 relate to a certified mailing that you 3 sent to Mr. Bobal on or about August 4 12, 2010? 5 A. Certificate of mailing, yes. 6 Q. What does this document 7 relate to, what do these receipts relate 8 to? 9 A. Just a receipt of my 10 mailing. 11 Q. What mailing? 12 A. Notes to Mike Bobal, the 13 company. 14 Q. What did those notes concern? 15 A. Fork trucks, defect, safety 16 issues, same thing, horns not working, 17 brakes slipping, stall off. 18 Q. So are you asserting that 19 this document, Deposition Exhibit 9, is 20 the receipt for the letter that you sent 21 to Mr. Bobal on August 12, 2010? 22 A. Yeah, I sent Mr. Bobal a 23 letter August 12, 2010, yes. 24 Q. And what I'm asking you is, 25 is it your testimony that Deposition</p>	<p>1 Q. I'm sorry, anything else that 2 you were referring to? 3 A. That should cover it. 4 - - - - - 5 (Thereupon, Deposition 6 Exhibit-10 was marked for 7 purposes of identification.) 8 - - - - - 9 Q. Showing you Deposition 10 Exhibit 10, is this the correspondence 11 that you're referring to? This is a 12 document bearing, for the record, Bates 13 label ABC 5 through ABC 6. Two-page 14 document, cover sheet appears to be a 15 letter from you dated August 11th, 2010. 16 Second page appears to be an enclosure 17 to that letter dated July 16th, 2010, 18 addressed to you regarding an 19 outstanding payroll check. And, again, 20 for clarification my question is, is 21 this the correspondence you were just 22 referring to concerning a payroll issue? 23 A. It appears to be. 24 Q. You did not send this 25 document certified mail to Mr. Bobal --</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 66	Page 68
<p>1 excuse me, to Mr. Taraba?</p> <p>2 A. To Taraba? No, I left this</p> <p>3 in the warehouse.</p> <p>4 Q. And then if you look at the</p> <p>5 cc on the bottom, did you -- let me ask</p> <p>6 you this first: You drafted this</p> <p>7 document, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And the cc listed William C.</p> <p>10 Stimmel, S T I M M E L, and Michael L.</p> <p>11 Bobal, correct?</p> <p>12 A. Yes.</p> <p>13 Q. By this were you indicating</p> <p>14 that you had sent carbon copies to each</p> <p>15 of these gentlemen?</p> <p>16 A. I put the copies with the</p> <p>17 originals for them.</p> <p>18 Q. And you were indicating that</p> <p>19 you were providing copies of Deposition</p> <p>20 Exhibit 10 to Mr. Stimmel and to Mr.</p> <p>21 Bobal, is that right?</p> <p>22 A. In-house, yes.</p> <p>23 Q. And how did you send Mr.</p> <p>24 Bobal his copy?</p> <p>25 A. I believe I mailed it.</p>	<p>1 Bottling Company?</p> <p>2 A. I don't have any.</p> <p>3 Q. So you chose not to retain</p> <p>4 copies of the August 11th, 2010 and</p> <p>5 August 12th, 2010 correspondence to Mr.</p> <p>6 Cozart, Mr. Taraba and Mr. Bobal, is</p> <p>7 that right?</p> <p>8 A. They're handwritten directly</p> <p>9 to the company, they have them, they</p> <p>10 should have them.</p> <p>11 Q. And you didn't retain any</p> <p>12 copies for yourself?</p> <p>13 A. Handwritten, no. I don't</p> <p>14 copy everything.</p> <p>15 MR. ROSSI: Wait for a question.</p> <p>16 THE WITNESS: Sorry.</p> <p>17 Q. If you can pull out</p> <p>18 Deposition Exhibit 7, it's the</p> <p>19 handwritten note dated August 6, 2008.</p> <p>20 A. Yes.</p> <p>21 Q. It's a document you produced</p> <p>22 to us and that's handwritten in your</p> <p>23 handwriting, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And you retained a copy of</p>
Page 67	Page 69
<p>1 Q. Did you send Mr. Bobal's</p> <p>2 copy certified mail?</p> <p>3 A. No, regular mail, ordinary</p> <p>4 mail.</p> <p>5 Q. Why did you not send Mr.</p> <p>6 Bobal's copy certified mail?</p> <p>7 A. Because this is a payroll</p> <p>8 issue and if he didn't deal with it the</p> <p>9 union can deal with it.</p> <p>10 Q. Is it possible that</p> <p>11 Deposition Exhibit 10 is actually the</p> <p>12 letter for which Deposition Exhibit 9 is</p> <p>13 a receipt?</p> <p>14 A. Nope.</p> <p>15 Q. Because you produced no copy</p> <p>16 of any written document whatsoever</p> <p>17 setting forth the vehicle issue?</p> <p>18 A. Repeat that, please.</p> <p>19 Q. You've produced no document</p> <p>20 concerning any correspondence, whether</p> <p>21 it be to Mr. Cozart, Mr. Taraba or Mr.</p> <p>22 Bobal about the vehicle issue?</p> <p>23 A. What do you mean produce?</p> <p>24 Q. You didn't provide it to us</p> <p>25 during discovery, us being the American</p>	<p>1 that, correct?</p> <p>2 A. It looked that way because</p> <p>3 it was a fax transmission before it,</p> <p>4 yes.</p> <p>5 Q. So what is your practice</p> <p>6 when you submit handwritten documents or</p> <p>7 correspondence to the company, do you</p> <p>8 retain copies or not?</p> <p>9 A. Sometimes.</p> <p>10 Q. And how do you determine</p> <p>11 whether you're going to retain a copy of</p> <p>12 a handwritten document you've submitted</p> <p>13 to the company?</p> <p>14 A. If I'm going to fax it or if</p> <p>15 I type it on the computer.</p> <p>16 Q. I asked about handwritten</p> <p>17 document.</p> <p>18 A. Oh, I'm sorry. I apologize.</p> <p>19 It just depends on the circumstance. If</p> <p>20 I'm in-house, if it's there, during the</p> <p>21 day if it's a note, you write it on the</p> <p>22 floor, changes all the time. And when</p> <p>23 I fax I always photocopy so the fax</p> <p>24 machine can take it easy.</p> <p>25 Q. Because you want to make</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 70	Page 72
<p>1 sure that you have accurate records of</p> <p>2 correspondence that you submitted?</p> <p>3 A. No. When I fax the fax</p> <p>4 machine doesn't take notebook paper and</p> <p>5 other stuff and plus it looks different</p> <p>6 when it's a different color so when I</p> <p>7 send a fax I always copy, photocopy.</p> <p>8 Q. Oh, you're saying that you</p> <p>9 photocopy the handwritten note so that</p> <p>10 the fax machine can transmit the</p> <p>11 document more easily?</p> <p>12 A. When my faxes, yes, if it's</p> <p>13 on regular paper.</p> <p>14 Q. On August 12th, 2010, before</p> <p>15 you sent the correspondence to Mr. Bobal</p> <p>16 did you call Mr. Taraba and ask what</p> <p>17 the status was of your written note to</p> <p>18 him of August 11, 2010?</p> <p>19 A. No.</p> <p>20 Q. Before you sent the August</p> <p>21 12th, 2010 correspondence to Mr. Bobal</p> <p>22 did you call Mr. Cozart and ask him</p> <p>23 what the status was of the verbal</p> <p>24 conversation about the vehicle issue and</p> <p>25 the written correspondence that you left</p>	<p>1 layoff since September 21st of 2009,</p> <p>2 correct?</p> <p>3 A. Layoff, yes.</p> <p>4 Q. How is it that you happened</p> <p>5 to be at the Youngstown facility on</p> <p>6 August 11, 2010 approaching Mr. Cozart</p> <p>7 was while he was sitting on a forklift?</p> <p>8 A. Well, because John wasn't</p> <p>9 there.</p> <p>10 Q. How were you -- why were you</p> <p>11 at the Youngstown facility on August 11,</p> <p>12 2010 since you had been on layoff since</p> <p>13 September 21st of 2009?</p> <p>14 A. Well, several reasons. I</p> <p>15 wanted to look at the board and see if</p> <p>16 they had my union dues receipts, they</p> <p>17 usually post them on the board or leave</p> <p>18 them there. Drop a note off for John I</p> <p>19 pretyped for payroll issues and I</p> <p>20 observed the fork issues again.</p> <p>21 Q. So I want to make sure I</p> <p>22 understand. You went to the Youngstown</p> <p>23 facility on August 11th, 2010 at</p> <p>24 approximately what time?</p> <p>25 A. I can't recall.</p>
Page 71	Page 73
<p>1 for Mr. Cozart?</p> <p>2 A. No, I don't even know his</p> <p>3 phone number.</p> <p>4 Q. So you didn't call, fair to</p> <p>5 say you didn't call anyone at the</p> <p>6 Youngstown facility prior to sending</p> <p>7 your letter to Mr. Bobal on August 12,</p> <p>8 2010?</p> <p>9 A. They have my phone number,</p> <p>10 no.</p> <p>11 Q. You say they have my phone</p> <p>12 number and that's because you were not</p> <p>13 actively working at the Youngstown</p> <p>14 facility in August of 2010, correct?</p> <p>15 A. I was active.</p> <p>16 Q. You were active in seniority</p> <p>17 but you were not working a day-to-day</p> <p>18 basis, correct?</p> <p>19 A. I didn't clock in and clock</p> <p>20 out, no.</p> <p>21 Q. Were you performing work as</p> <p>22 a warehouse person and you just weren't</p> <p>23 clocking in and out in August of 2010?</p> <p>24 A. No.</p> <p>25 Q. No, in fact, you had been on</p>	<p>1 Q. Obviously it was after Mr.</p> <p>2 Taraba had left for the day?</p> <p>3 A. He wasn't there, no.</p> <p>4 Q. And you were not currently</p> <p>5 working somewhere else on August 11,</p> <p>6 2010, correct?</p> <p>7 A. Correct.</p> <p>8 Q. So you went to the</p> <p>9 Youngstown facility on August 11, 2010</p> <p>10 to look at the board to see if a union</p> <p>11 dues receipt had been posted for you?</p> <p>12 A. That's one of the reasons,</p> <p>13 yes.</p> <p>14 Q. And then the other reason</p> <p>15 you said was to deliver a pretyped note</p> <p>16 for Mr. Taraba about a payroll issue,</p> <p>17 correct?</p> <p>18 A. That's another reason, yes.</p> <p>19 Q. Any other reasons other than</p> <p>20 looking for the union dues receipt and</p> <p>21 to deliver the pretyped note for Mr.</p> <p>22 Taraba on the payroll issue that you</p> <p>23 were at the Youngstown facility on</p> <p>24 August 11, 2010?</p> <p>25 A. Please repeat that.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 74	Page 76
<p>1 Q. Any other reasons that you 2 went to the Youngstown facility on 3 August 11, 2010 other than to look at 4 the board to see if your union dues 5 receipt was posted and to deliver a 6 pretyped note to Mr. Taraba about 7 payroll issues? 8 A. Not really. 9 Q. And the pretyped note to Mr. 10 Taraba about payroll issues, that's 11 Deposition Exhibit 10, is that right? 12 A. Say that again, please. 13 Q. The pretyped note that you 14 were delivering to Mr. Taraba on August 15 11, 2010, that is Deposition Exhibit 10, 16 is that right? 17 A. It's a copy, yes. 18 Q. That's the letter that you 19 were going to Youngstown to deliver to 20 Mr. Taraba on August 11, 2010? 21 A. I don't see my signature 22 subscribed to it but it's the same 23 writing, correspondence, yes. 24 Q. I'm sorry, maybe I 25 misunderstood. Are you saying that you</p>	<p>1 A. That's correct. This is 2 pretyped to save time. 3 Q. I'm not sure what that has 4 to do with my question. I'm just 5 asking simply, you're saying that on 6 August 11, 2010 you placed Deposition 7 Exhibit 10 in Mr. Taraba's mailbox but 8 placed the handwritten note about the 9 vehicle issue on his desk? 10 A. Yes. 11 Q. You also testified that you 12 complained to OSHA in 2010 about the 13 vehicle issue? 14 A. Correct. 15 Q. You placed a phone call to 16 OSHA on August 20th, 2010, is that 17 right? 18 A. Telephone communications, 19 yes. 20 - - - - - 21 (Thereupon, Deposition 22 Exhibit-11 was marked for 23 purposes of identification.) 24 - - - - - 25 Q. Handing you what's been</p>
Page 75	Page 77
<p>1 didn't write this letter? 2 A. I didn't say that. 3 Q. You did write this letter? 4 A. Yes. 5 Q. When you left the note for 6 Mr. Taraba concerning the vehicle issue 7 on August 11, 2010 did you -- on his 8 desk I think is what you testified to, 9 did you leave that note together with 10 Deposition Exhibit 10? 11 A. Say that again, please. 12 Q. When you left Mr. Taraba the 13 note concerning the vehicle issue on 14 August 11, 2010, did you leave that note 15 on Mr. Taraba's desk together with 16 Deposition Exhibit 10? 17 A. No, I put it in his mailbox. 18 Q. Put which in his mailbox? 19 A. The Exhibit 10. I believe 20 so. 21 Q. So to make sure I 22 understand, you put Deposition Exhibit 23 10 in Mr. Taraba's mailbox but you put 24 the handwritten note concerning the 25 vehicle issue on his desk?</p>	<p>1 marked Deposition Exhibit 11, I don't 2 think you've seen this document before. 3 This is a document that OSHA provided to 4 us in response to our FOIA request. 5 What I'm really looking for from this 6 is, does this document accurately 7 reflect in paragraph 1 the vehicle issue 8 that you communicated to OSHA on August 9 20th, 2010? 10 A. Yes. 11 Q. Going back to something you 12 actually said a few moments ago, I think 13 you said while you were at the 14 Youngstown facility on August 11th, 2010 15 to check to see if your unions dues 16 receipt was on the board and to deliver 17 Deposition Exhibit 10 to Mr. Taraba you 18 said you noticed the forklift issues? 19 A. When I went out on the 20 floor. 21 Q. Were the forklifts that you 22 were referring to having issues, those 23 were in use at that time? 24 A. Yes. 25 Q. Does Deposition Exhibit 11</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 78	Page 80
<p>1 refresh your recollection about which 2 forklifts you were identifying as having 3 the issues that were in service on 4 August 11th, 2010? 5 A. Repeat that. 6 Q. Does Deposition Exhibit 11 7 refresh your recollection about the 8 forklift trucks that you were 9 complaining about that were in service 10 as you witnessed them on August 11, 11 2010? 12 A. Sure. 13 Q. And how does that refresh 14 your recollection, what trucks were 15 those? 16 A. Fork trucks, the gas fork 17 trucks need attention, not safe, not 18 working properly. 19 Q. Sir, maybe I wasn't clear, 20 maybe it was a bad question. I'm 21 looking, and I'll point to it because 22 maybe this will be helpful. 23 A. Sure. 24 Q. There's a notation there that 25 says location fork trucks number 23, 25</p>	<p>1 (Thereupon, Deposition 2 Exhibit-12 was marked for 3 purposes of identification.) 4 - - - - - 5 Q. Showing you what's been 6 marked Deposition Exhibit 12, this is a 7 document that you produced -- sorry, 8 Mike -- to us in discovery. Again, 9 there's some highlighted portions that 10 we copied as is for purposes of the 11 document, that's highlighting that you 12 placed on the document, Mr. Potts? 13 A. Sure, for my lawyer to look 14 at. 15 Q. Looking at Deposition Exhibit 16 12 that you have in front of you, 17 you've highlighted, as you said the 18 letter was dated August 20th, 2010, 19 addressed to you and it starts off by 20 saying, "The purpose of this letter is 21 to acknowledge the receipt of your 22 formal complaint and to inform you that 23 an inspection of your workplace will be 24 scheduled as soon as possible, in 25 accordance with the priorities</p>
Page 79	Page 81
<p>1 and 40, do you see that? 2 A. Oh, yeah, yeah, yeah. 3 Q. Are those the trucks that 4 you were complaining of to OSHA that 5 were in service on August 11, 2010 that 6 you saw vehicle issues with? 7 A. One of the numbers I don't 8 believe was a correct number. I think 9 I might have used 40. I think it was a 10 bigger number, but yeah. 11 Q. So understanding that 40 may 12 not have been correct you were 13 identifying for OSHA the trucks that you 14 witnessed as being in service on August 15 11, 2010 that had the issues that you 16 identified to OSHA? 17 A. Yes, I remember and recollect 18 now. Thank you. 19 Q. OSHA then sent you 20 correspondence confirming that you had 21 submitted a complaint, do you recall 22 that? 23 A. Yes, August 20th, 2010, 24 absolutely. 25 - - - - -</p>	<p>1 established by the agency." Did I read 2 that correctly? 3 A. Yes. 4 Q. Did you tell OSHA when you 5 called on August 20th, 2010 that you 6 were on layoff status since September 7 21st of 09? 8 A. No. 9 Q. Letter goes on to say, 10 second paragraph, let's skip to -- well, 11 strike that. Second paragraph starts, 12 "Section 11(c) of the OSH Act provides 13 protection for employees against 14 discrimination because of their 15 involvement in protected safety and 16 health related activity. If you are 17 being treated differently or action is 18 being taken against you because of your 19 safety or health activity, you may file 20 a complaint with OSHA. You should file 21 this complaint as soon as possible since 22 OSHA normally can accept only those 23 complaints filed within 30 days of the 24 alleged discriminatory action." Did I 25 read that correctly?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 82	Page 84
<p>1 A. Word for word.</p> <p>2 Q. So when you received this</p> <p>3 correspondence you understood that if</p> <p>4 ABC engaged in some action that you</p> <p>5 thought was directly related to your</p> <p>6 complaint to OSHA you could file a</p> <p>7 complaint with OSHA, is that right?</p> <p>8 A. Repeat that, please.</p> <p>9 Q. When you received this letter</p> <p>10 and read it you understood that if ABC</p> <p>11 took some action in relation to your</p> <p>12 employment that you believed was because</p> <p>13 of this complaint to OSHA, that you</p> <p>14 could file a complaint with OSHA?</p> <p>15 A. I've been informed of Section</p> <p>16 11(c), yes.</p> <p>17 Q. Did you file a complaint</p> <p>18 with OSHA in relation to any conduct</p> <p>19 that ABC engaged in as a result of your</p> <p>20 complaint about the vehicle issue?</p> <p>21 A. No.</p> <p>22 Q. Do you recall that OSHA also</p> <p>23 sent you correspondence informing you</p> <p>24 that they had notified ABC a complaint</p> <p>25 had been filed?</p>	<p>1 that encloses a letter to ABC of that</p> <p>2 same date, September 17th, 2010?</p> <p>3 A. Yes, I received this</p> <p>4 material.</p> <p>5 Q. Looking at the first</p> <p>6 paragraph of this letter to you you</p> <p>7 highlighted, "In response to your</p> <p>8 complaint of health and safety hazards</p> <p>9 at American Bottling Company the</p> <p>10 Occupational Safety and Health</p> <p>11 Administration (OSHA) has notified</p> <p>12 American Bottling Company requesting</p> <p>13 that the appropriate action be taken to</p> <p>14 correct the situation. Enclosed is a</p> <p>15 copy of that letter for your</p> <p>16 information." Did I read that</p> <p>17 correctly?</p> <p>18 A. Word for word.</p> <p>19 Q. Next paragraph that you</p> <p>20 didn't highlight says, "We have not</p> <p>21 revealed your identity to the employer."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Any reason to believe that</p> <p>25 OSHA wasn't telling you the truth that</p>
Page 83	Page 85
<p>1 A. Say that again, please.</p> <p>2 Q. Do you also recall that OSHA</p> <p>3 sent you correspondence informing you</p> <p>4 that the agency had notified ABC a</p> <p>5 complaint had been filed?</p> <p>6 A. Yes.</p> <p>7 - - - - -</p> <p>8 (Thereupon, Deposition</p> <p>9 Exhibit-13 was marked for</p> <p>10 purposes of identification.)</p> <p>11 - - - - -</p> <p>12 Q. Deposition Exhibit 13, this</p> <p>13 is correspondence from OSHA dated</p> <p>14 September 17th, 2010 to you enclosing a</p> <p>15 copy of what appears to be</p> <p>16 correspondence of the same date,</p> <p>17 September 17, 2010, to a Derick Bogard,</p> <p>18 B O G A R D, of the American Bottling</p> <p>19 Company in Youngstown. Would you agree</p> <p>20 with that characterization of this</p> <p>21 document?</p> <p>22 A. Clarify, repeat.</p> <p>23 Q. I'm just asking, am I</p> <p>24 accurately representing that this is a</p> <p>25 letter to you dated September 17th, 2010</p>	<p>1 they had not informed ABC that you had</p> <p>2 filed a complaint on August 20th, 2010</p> <p>3 related to ABC Youngstown?</p> <p>4 A. Repeat the question.</p> <p>5 Q. Any reason to believe OSHA</p> <p>6 wasn't telling you the truth that they</p> <p>7 had not revealed your identity to ABC</p> <p>8 concerning the complaint you submitted</p> <p>9 on August 20th, 2010 about the</p> <p>10 Youngstown facility vehicle issue?</p> <p>11 A. Discussion with the assistant</p> <p>12 area director Joseph Warner.</p> <p>13 Q. What did Mr. Warner say to</p> <p>14 you that led you to believe OSHA was</p> <p>15 not telling you the truth in this</p> <p>16 letter, that they had not revealed your</p> <p>17 identity to ABC?</p> <p>18 A. On August 26th, 2010 he said</p> <p>19 he's not going to inspect the place.</p> <p>20 Q. I'm sorry, I'm not sure you</p> <p>21 answered my question. Maybe you have</p> <p>22 and we just need to probe it a little</p> <p>23 bit more, but what I'm asking you is,</p> <p>24 there's a conversation you said you had</p> <p>25 with Mr. Warner --</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 86	Page 88
<p>1 A. Yes.</p> <p>2 Q. -- on August 26th that leads</p> <p>3 you to believe that OSHA is not telling</p> <p>4 you the truth in the September 17th</p> <p>5 letter that they have not revealed your</p> <p>6 identity to ABC?</p> <p>7 A. True.</p> <p>8 Q. What did Mr. Warner say on</p> <p>9 August 26th that led you to believe that</p> <p>10 OSHA is not telling you the truth in</p> <p>11 the September 17, 2010 correspondence?</p> <p>12 A. Again, Mr. Warner said he's</p> <p>13 not going to conduct an inspection, at</p> <p>14 that --</p> <p>15 Q. Anything else? I'm sorry.</p> <p>16 Go ahead.</p> <p>17 A. At that site.</p> <p>18 Q. Anything else Mr. Warner said</p> <p>19 that leads you to believe OSHA is not</p> <p>20 telling you the truth on September 17th,</p> <p>21 2010 that they did not reveal your</p> <p>22 identity to ABC?</p> <p>23 A. He said my employment was</p> <p>24 terminated or I was fired or terminated,</p> <p>25 so obviously there's dialogue about me,</p>	<p>1 something. You have to ask, it's</p> <p>2 probably recorded, being a government</p> <p>3 agency.</p> <p>4 Q. I'm sorry. He said that he</p> <p>5 couldn't get a federal judge to what?</p> <p>6 A. You have to ask him, I don't</p> <p>7 remember what he said, to get something</p> <p>8 to go in there. I was shocked.</p> <p>9 Q. Anything else that Mr. Warner</p> <p>10 said to you on August 26th, 2010 that</p> <p>11 leads you to believe that OSHA was not</p> <p>12 being truthful in its September 17th,</p> <p>13 2010 correspondence that they had not</p> <p>14 revealed your identity to ABC?</p> <p>15 A. I just find it odd that on</p> <p>16 the next page he says, "On September</p> <p>17 17th the Occupational Safety and Health</p> <p>18 Administration received a notice of</p> <p>19 safety and health hazards at your work</p> <p>20 site."</p> <p>21 Q. And you'd agree with me on</p> <p>22 that page your name is nowhere</p> <p>23 mentioned, correct?</p> <p>24 A. That's correct.</p> <p>25 Q. Do you have any knowledge of</p>
Page 87	Page 89
<p>1 somebody is talking about me between</p> <p>2 them.</p> <p>3 Q. I'm sorry. So Mr. Warner</p> <p>4 said, best as you can recall his exact</p> <p>5 words about your employment status?</p> <p>6 A. You have to ask him.</p> <p>7 Q. Well, I'm asking what you</p> <p>8 recall from that conversation. So what</p> <p>9 do you recall, as best you can, were</p> <p>10 Mr. Warner's exact words during the</p> <p>11 August 26th, 2010 conversation you had</p> <p>12 with him about your employment status?</p> <p>13 A. What sticks out, he says I'm</p> <p>14 not an employee.</p> <p>15 Q. Did you ask him how he knew</p> <p>16 that information?</p> <p>17 A. No.</p> <p>18 Q. Anything else Mr. Warner said</p> <p>19 to you on August 26th, 2010 that led</p> <p>20 you to believe OSHA was not telling you</p> <p>21 the truth on September 17th, 2010 that</p> <p>22 they had not revealed your identity to</p> <p>23 ABC?</p> <p>24 A. He said something about he</p> <p>25 can't get a federal judge to grant him</p>	<p>1 OSHA internal operating procedures that</p> <p>2 forbids them from disclosing your name?</p> <p>3 A. I don't know.</p> <p>4 Q. Strike the question, please.</p> <p>5 Do you have any knowledge of OSHA</p> <p>6 internal procedures that forbids OSHA</p> <p>7 from disclosing the name of a</p> <p>8 complainant?</p> <p>9 A. Say that again.</p> <p>10 Q. Do you have any knowledge of</p> <p>11 internal procedures at OSHA that forbids</p> <p>12 OSHA from disclosing the name of a</p> <p>13 complainant who filed a complaint with</p> <p>14 OSHA?</p> <p>15 A. No, I don't know what their</p> <p>16 policies and practices are.</p> <p>17 Q. I don't think I asked you</p> <p>18 this question, I think I asked you just</p> <p>19 as it relates to that page of that</p> <p>20 attachment addressed to Mr. Bogard.</p> <p>21 A. Which --</p> <p>22 Q. Please take the time to look</p> <p>23 through it if you'd like, but would you</p> <p>24 agree with me that your name is nowhere</p> <p>25 mentioned in that letter to Mr. Bogard</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 90	Page 92
<p>1 of September 17th, 2010 that is part of</p> <p>2 Deposition Exhibit 13?</p> <p>3 A. You saying the attachment to</p> <p>4 your Exhibit 13?</p> <p>5 Q. Correct.</p> <p>6 A. I don't see my name, no.</p> <p>7 Q. Looking back at the first</p> <p>8 page of -- actually strike the question,</p> <p>9 please. You said that your recollection</p> <p>10 is that Mr. Warner said to you you were</p> <p>11 not an employee, right?</p> <p>12 A. That's correct.</p> <p>13 Q. Earlier you said that he</p> <p>14 made a comment that your employment had</p> <p>15 been terminated, is that something you</p> <p>16 also recall Mr. Warner saying?</p> <p>17 A. Something like that I recall.</p> <p>18 Q. So as of at least August</p> <p>19 26th, 2010 you had learned or had been</p> <p>20 told from someone at OSHA that they</p> <p>21 believed your employment had been</p> <p>22 terminated?</p> <p>23 A. Hearsay, yes.</p> <p>24 Q. Correct, you didn't hear that</p> <p>25 from ABC, you were hearing that from</p>	<p>1 A. After the shock set in and</p> <p>2 it was a little confusing, I was</p> <p>3 perplexed for a while, but reviewing the</p> <p>4 contract, the collective bargaining</p> <p>5 agreement looking to see what remedies</p> <p>6 were available and I said, well, let's</p> <p>7 do the wage claim and get paid.</p> <p>8 Q. And why do you believe that</p> <p>9 someone was working your job?</p> <p>10 A. Well, if they said that I'm</p> <p>11 -- if he instead of they, you can say</p> <p>12 they also, if Mr. Warner said or alleged</p> <p>13 that I've been fired, terminated or</p> <p>14 whatever, I assume I'd have to be</p> <p>15 replaced.</p> <p>16 Q. So you filed a grievance</p> <p>17 because you assumed someone had replaced</p> <p>18 you in your position and you wanted to</p> <p>19 get paid?</p> <p>20 A. Fair enough. Even if any</p> <p>21 other worker from another department</p> <p>22 worked, I'm entitled to pay too.</p> <p>23 Anybody already a member of the</p> <p>24 bargaining unit, I'm still entitled to</p> <p>25 pay if they worked my job, my place, et</p>
Page 91	Page 93
<p>1 someone at OSHA?</p> <p>2 A. Third party, yes.</p> <p>3 Q. Did you contact ABC to find</p> <p>4 out what the heck he was talking about?</p> <p>5 A. Just waited on them. Wait a</p> <p>6 minute, waiting on them for the OSHA</p> <p>7 stuff but let me rephrase or correct</p> <p>8 that and expand. I filed a wage claim,</p> <p>9 grievance number 11823, because I was</p> <p>10 puzzled and surprised by his statement.</p> <p>11 So if they hired anybody, if there's</p> <p>12 anybody working my job I'm due to get</p> <p>13 paid under any circumstances. So I</p> <p>14 said, might as well get paid and sort</p> <p>15 it out later. So I filed a wage claim</p> <p>16 August 30th, 2010, grievance number</p> <p>17 11823.</p> <p>18 Q. So if I understand your</p> <p>19 testimony, based on what Mr. Warner</p> <p>20 shared with you on August 26, 2010 you</p> <p>21 filed grievance 11823, is that right?</p> <p>22 A. Repeat that.</p> <p>23 Q. Based on what Mr. Warner</p> <p>24 said to you on August 26, 2010 you</p> <p>25 filed grievance number 11823?</p>	<p>1 cetera, et cetera.</p> <p>2 Q. And your statement you're</p> <p>3 entitled to get paid, you're deriving</p> <p>4 that conclusion from the terms of the</p> <p>5 collective bargaining agreement, is that</p> <p>6 right?</p> <p>7 A. Well, I just looked at that</p> <p>8 as a vehicle to address and remedy the</p> <p>9 wage issue and discussion in relating to</p> <p>10 Mr. Warner saying that there's a</p> <p>11 termination issue. It surprised me,</p> <p>12 puzzled me, scared me, made me nervous.</p> <p>13 So I'm trying to figure out, might as</p> <p>14 well get paid, just look at the</p> <p>15 grievance process for a wage claim.</p> <p>16 Because in the past, when somebody else</p> <p>17 works overtime and there's seniority</p> <p>18 issues, they got to pay everybody. So</p> <p>19 I says, I might as well get paid.</p> <p>20 Q. And going back to my</p> <p>21 question which is, you derived your</p> <p>22 understanding about when you had a right</p> <p>23 to be paid from the terms of the</p> <p>24 collective bargaining agreement which</p> <p>25 governs your employment, correct?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 94	Page 96
<p>1 A. Partially, yes. The</p> <p>2 separation of company policies and</p> <p>3 whatever they do.</p> <p>4 Q. What company policies</p> <p>5 dictates your wages and when you're</p> <p>6 entitled to be paid that you're</p> <p>7 referring to?</p> <p>8 A. They made a mistake before</p> <p>9 with pay rates or something, they didn't</p> <p>10 pay people right. So, you know, with</p> <p>11 the CBA it just sets wages for certain</p> <p>12 employees and certain departments, kind</p> <p>13 of like a guideline. Like an employee</p> <p>14 works so much an hour, per hour, rate.</p> <p>15 Q. I'm sorry. Are you saying</p> <p>16 that ABC doesn't have to comply with the</p> <p>17 terms of the collective bargaining</p> <p>18 agreement?</p> <p>19 A. It's a shame that they don't</p> <p>20 in a lot of cases.</p> <p>21 Q. My question is a little</p> <p>22 different. Are you saying they don't</p> <p>23 have to comply with the terms of the</p> <p>24 collective bargaining agreement, that</p> <p>25 it's just a guide?</p>	<p>1 A. Just hearsay, yes. Entitled</p> <p>2 to pay.</p> <p>3 Q. Looking back at Deposition</p> <p>4 Exhibit 13, third paragraph of that</p> <p>5 letter, I'm happy to read it again, I</p> <p>6 think it's probably very similar to what</p> <p>7 we've already seen in Deposition Exhibit</p> <p>8 12, but my question to you is, you</p> <p>9 understood from this correspondence that</p> <p>10 if you believed some action was taken by</p> <p>11 ABC against you that some way related to</p> <p>12 your August 20, 2010 complaint to OSHA,</p> <p>13 that you could file a complaint with</p> <p>14 OSHA?</p> <p>15 A. Same as it was on the August</p> <p>16 20th, 2010 letter, yes.</p> <p>17 Q. So you understood that from</p> <p>18 receiving the September 17th, 2010</p> <p>19 letter as well?</p> <p>20 A. Correct.</p> <p>21 Q. And you didn't file a</p> <p>22 complaint with OSHA after you received</p> <p>23 the September 17th, 2010 correspondence</p> <p>24 either, did you?</p> <p>25 A. Not at that time.</p>
Page 95	Page 97
<p>1 A. Well, they can do -- they</p> <p>2 have the opportunity to choose what they</p> <p>3 want to do and what they don't.</p> <p>4 Q. So you filed this grievance</p> <p>5 11823 on August 30th, 2010?</p> <p>6 A. Yes.</p> <p>7 Q. But you did not file the</p> <p>8 complaint with OSHA at that time</p> <p>9 concerning your termination as it may</p> <p>10 have related to your complaint to them</p> <p>11 of August 20th, 2010?</p> <p>12 A. Well, everything there is</p> <p>13 confusing, it needs to be sorted out</p> <p>14 with regard to pay rates. In other</p> <p>15 words, I'm hearing hearsay, I don't know</p> <p>16 if I believed the guy, I don't know</p> <p>17 what to believe at that point, fired or</p> <p>18 not.</p> <p>19 Q. Well, you certainly filed a</p> <p>20 grievance based on what he said,</p> <p>21 correct?</p> <p>22 A. Well, I filed a grievance</p> <p>23 for wages.</p> <p>24 Q. Based on what Mr. Warner</p> <p>25 told you, correct?</p>	<p>1 Q. Well, I think you testified</p> <p>2 earlier but maybe I got it wrong, have</p> <p>3 you ever filed a complaint with OSHA</p> <p>4 concerning action taken by ABC that you</p> <p>5 felt was a result of your August 20th,</p> <p>6 2010 complaint?</p> <p>7 A. No.</p> <p>8 Q. Now, OSHA subsequently</p> <p>9 informed you, and maybe this is the</p> <p>10 phone call but I think you received</p> <p>11 correspondence too, that an</p> <p>12 investigation was conducted and that any</p> <p>13 alleged violation had been corrected or</p> <p>14 no longer existed, do you recall that?</p> <p>15 A. Repeat that, please.</p> <p>16 Q. Do you recall receiving</p> <p>17 information from OSHA in which they</p> <p>18 informed you that an investigation had</p> <p>19 been conducted and any alleged violation</p> <p>20 was either corrected or no longer</p> <p>21 existed?</p> <p>22 A. Yes, after the August 20th,</p> <p>23 2010 --</p> <p>24 MR. ROSSI: I didn't hear you,</p> <p>25 Robert, speak up.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 98	Page 100
<p>1 A. Yes, after the August 20th, 2 2010 correspondence, yes. Sorry, I'll 3 get another drink. 4 - - - - - 5 (Thereupon, Deposition 6 Exhibit-14 was marked for 7 purposes of identification.) 8 - - - - - 9 Q. Showing you what's been 10 marked Deposition Exhibit 14, a document 11 produced by you to us in this 12 litigation. Again, the highlighted 13 copies, my understanding, are your 14 highlights, and this is correspondence 15 dated October 1st, 2010 to you, signed 16 by Joseph Warner with an attachment that 17 appears to be correspondence from Bill 18 Stimmel, branch manager, to Joe Warner 19 at the Department of Labor dated 20 September 23rd, 2010, is that right? 21 A. What did you say about dated 22 23rd? 23 Q. That simply this is appears 24 to be a document sent to you on August 25 1st, 2010 that has an enclosure of</p>	<p>1 findings that the hazardous conditions 2 have been corrected or no longer 3 existed, that you could let OSHA know 4 that? 5 A. Sure. 6 Q. Did you contact OSHA and let 7 them know you disagreed? 8 A. No. 9 Q. You would agree with me that 10 there's nothing in the correspondence 11 from Mr. Warner to you that references 12 your employment status with the American 13 Bottling Company, is that right? 14 A. I don't see anything, no. 15 Q. Going back to discussing your 16 claims in a little more detail, 17 specifically still the whistleblower 18 claim, who do you claim retaliated 19 against you? 20 A. The complaint says American 21 Bottling Company dba 7-Up, Dr. Pepper 22 Snapple Group aka Cadbury Schweppes fka 23 7-Up, I don't know if it say Cadbury 24 Adams, I don't have the complaint, you 25 have it. May I look?</p>
Page 99	Page 101
<p>1 correspondence sent to OSHA by Mr. 2 Stimmel on September 23rd, 2010? 3 A. Oh, yes, correct. 4 Q. So in this October 1st, 2010 5 correspondence to you from Mr. Warner he 6 states in the first paragraph, "American 7 Bottling Company has advised me that the 8 hazards you complained about have been 9 investigated. A copy of the employer's 10 letter is enclosed. With this 11 information OSHA feels the case can be 12 closed on the grounds that the hazardous 13 conditions have been corrected or no 14 longer exist." Did I read that 15 correctly? 16 A. Word for word. 17 Q. It says, "If you do not 18 agree that the hazards you complained 19 about have been satisfactorily abated, 20 please contact us by October 12, 2010." 21 Did I read that correctly? 22 A. Correct. 23 Q. So you understood at the 24 time you received Deposition Exhibit 14 25 that if you disagreed with OSHA's</p>	<p>1 Q. If you'd like but I think 2 maybe you're answering a different 3 question. I'm asking who within the 4 company are you claiming retaliated 5 against you, what individual? 6 A. On its face the complaint 7 says the company, American Bottling 8 Company, dba 7-Up, aka Dr. Pepper 9 Snapple Group, aka Dr. Pepper/Seven Up, 10 fka Cadbury Schweppes Bottling Group. 11 Q. I understand what the 12 complaint says but, respectfully, who 13 within the organization, what individual 14 are you claiming retaliated against you 15 for the vehicle issue complaint? 16 A. Any of the agents. 17 Q. Can you identify one person 18 at the company that you claim took some 19 conduct against you in retaliation for 20 you complaining about the vehicle issue? 21 A. Michael Bobal. 22 Q. Anyone else? 23 A. That's good. 24 Q. No one else other than Mr. 25 Bobal, is that correct?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 102	Page 104
<p>1 A. Any agent in the company, 2 you can list them all. 3 Q. Well, for purposes of your 4 claim I need to understand who 5 specifically at the company, what 6 individual? 7 A. Let's see, John Taraba, Bill 8 Stimmel, Michael Bobal, any other names 9 involved with management had input. 10 Q. And presumably you have facts 11 upon which you're basing your assertion 12 that Mr. Bobal, Mr. Taraba and Mr. 13 Stimmel engaged in some conduct that you 14 considered retaliation for your vehicle 15 issue complaint? 16 A. Sure. 17 Q. Well, why don't we talk 18 about Mr. Bobal first. What did Mr. 19 Bobal do that you consider retaliation? 20 A. You know, on September 14th, 21 2010, upon entering the union hall 22 meeting he was together with John Taraba 23 and Bill Stimmel. Upon entering Taraba 24 greeted me, we shook hands. Stimmel 25 greeted me, we shook hands. I extended</p>	<p>1 retaliation for your 2010 vehicle issue 2 complaint? 3 A. Bad demeanor and conduct in 4 the meeting that day and leaving pretty 5 angrily and mad. 6 Q. Any other conduct other than 7 what you've already testified to that 8 you believe Mr. Bobal engaged in that 9 you considered retaliation for your 2010 10 vehicle issue complaint? 11 A. Permanent layoff. 12 Q. Anything else? 13 A. Separation from employment. 14 Q. Is that different from 15 termination? 16 A. Depends. 17 Q. With regard to you is that 18 different from termination? 19 A. Well, I mean, I still have 20 certain benefits that's still ongoing. 21 I got health care coverage, so obviously 22 that's not... 23 Q. And the health care coverage 24 is under COBRA, is that right? 25 A. At this time, yes.</p>
Page 103	Page 105
<p>1 my hand to Mr. Bobal, he didn't shake 2 my hand and I made a comment, I says, 3 oh, you don't want to shake my hand. 4 And then he says we got a harassment 5 issue to deal with. 6 Q. Anything else that Mr. Bobal 7 did that you consider retaliation for 8 your 2010 vehicle issue complaint? 9 A. Well, part of the group, you 10 got termination -- 11 Q. No, Mr. Bobal, I'm asking 12 you, let's talk about Mr. Bobal and if 13 we could -- I'm sorry to interrupt but 14 I think we can streamline this if you 15 just tell me the specific conduct and 16 then we can flesh it out so you'll have 17 a chance to explain? 18 A. Participated in the 19 termination. 20 Q. So Mr. Bobal didn't extend 21 his hand to shake your hand and said we 22 have a harassment issue to deal with and 23 then your termination. Any other 24 conduct that you assert Mr. Bobal 25 engaged in that you considered to be</p>	<p>1 Q. So other than -- and maybe I 2 should list them so we know the universe 3 and you tell me if there's anything 4 else. You have stated that Mr. Bobal 5 did not shake your hand at the September 6 14th, 2010 meeting at the facility, you 7 said we have a harassment issue to deal 8 with, you said your termination, Mr. 9 Bobal's bad demeanor, conduct and 10 leaving the meeting, your permanent 11 layoff and your separation from the 12 company. 13 Other than those items are you 14 asserting Mr. Bobal engaged in any 15 conduct that you deem to be in 16 retaliation for your 2010 complaint 17 about the vehicle issue? 18 A. Specifically permanent layoff 19 and discharge, yes. 20 Q. So are we taking the other 21 items off the table or are you just 22 reasserting those two items? 23 A. Everything is together. 24 Q. So we've covered the universe 25 of conduct that you're saying Mr. Bobal</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 106	Page 108
<p>1 engaged in that you believe was 2 retaliation for your 2010 vehicle issue 3 complaint? 4 A. Again, I repeat and I said 5 specifically, the permanent layoff and 6 the termination. 7 MS. MCARDLE: Could you repeat my 8 question, please? 9 (Record read.) 10 A. Is that question directed to 11 me? 12 Q. Yes, that's the pending 13 question. 14 A. Yes, sure, fair enough. 15 Q. And why do you think Mr. 16 Bobal -- strike the question, please. 17 Why do you think that conduct by Mr. 18 Bobal was done in retaliation for your 19 2010 vehicle issue complaint? 20 A. Because I'm not working with 21 American Bottling Company anymore. 22 Q. Any other reason? 23 A. That should cover it. 24 Q. With regards to your 25 permanent layoff, and I believe you're</p>	<p>1 believe Mr. Bobal was part of it, is 2 that right? 3 A. Yes. 4 Q. And I'm asking for the facts 5 on which you base your belief that Mr. 6 Bobal was part of that October 15, 2010 7 layoff designation decision? 8 A. Yes, it's a fact Mr. Bobal 9 had part in it. I don't know who he 10 answers to or who tells him to make the 11 decision. 12 Q. And I'm asking for the basis 13 for your statement that it's a fact he 14 took part in that decision? 15 A. Repeat that. 16 Q. I'm asking for the basis for 17 your statement that it's a fact Mr. 18 Bobal took part in that decision? 19 A. The union guys told me I'm 20 permanently laid off. 21 Q. So union guys told you you 22 were permanently laid off, they didn't 23 tell you and Mr. Bobal made that 24 decision, correct? 25 A. He's part of it, correct.</p>
Page 107	Page 109
<p>1 referring to the October 15th, 2010 2 date, correct? 3 A. Yes. 4 Q. Do you know who made the 5 decision to label that a permanent 6 layoff as of that date? 7 A. I don't know, but Mr. Bobal 8 had part in it. 9 Q. Okay. And why do you 10 believe Mr. Bobal had part in it? 11 A. He's a manager. 12 Q. Again, so you're assuming 13 because he's a manager he had a role in 14 the October 15, 2010 permanent layoff 15 designation? 16 A. He had the role in the 17 9-14-2010 discussions in which he left, 18 any grievances and wage claims he's got 19 roles in. 20 Q. Okay. But we're sticking 21 with the October 15th, 2010 designation 22 of a permanent layoff. 23 A. Yes. 24 Q. And you said that you don't 25 know who made that decision but you</p>	<p>1 Q. So we go back to this is an 2 assumption that he's a manager in HR 3 that you believe he must have had part 4 of that decision? 5 A. He's in the grievance process 6 and in the wage claims he signed off on 7 it. 8 Q. Well, I understand that 9 that's your position and that you're 10 drawing an assumption from that 11 position. My question is very simple. 12 Do you have any personal knowledge that 13 Mr. Bobal took part in the decision to 14 designate your layoff as permanent on 15 October 15, 2010? 16 A. Permanent knowledge, no. 17 Q. I'm sorry? 18 A. Permanent knowledge, no. 19 Q. Personal knowledge? 20 A. Personal knowledge, I'm 21 sorry. 22 Q. That's okay. Do you know 23 who was consulted in connection with the 24 October 15, 2010 designation of your 25 layoff as permanent?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 110	Page 112
<p>1 A. Meaning consulting whom?</p> <p>2 Q. You're right, it's a bad</p> <p>3 question. Do you know who was consulted</p> <p>4 in making the decision to designate your</p> <p>5 layoff as permanent on October 15, 2010?</p> <p>6 Personal knowledge?</p> <p>7 A. Personal knowledge, I don't</p> <p>8 know a lot of the people in the high</p> <p>9 positions in the company, so no.</p> <p>10 Q. Do you know what information</p> <p>11 was considered in reaching the decision</p> <p>12 to designate your layoff as permanent on</p> <p>13 October 15, 2010?</p> <p>14 A. One of the reasons is on</p> <p>15 9-14-2010 he claimed a harassment issue.</p> <p>16 Q. Do you ask Mr. Bobal what he</p> <p>17 meant by that?</p> <p>18 A. He departed from the meeting,</p> <p>19 didn't finish it, they left.</p> <p>20 Q. Did you ask Mr. Bobal what</p> <p>21 he meant by a harassment issue?</p> <p>22 A. I didn't get the opportunity</p> <p>23 because he left.</p> <p>24 Q. Did you ever contact him and</p> <p>25 ask him what he meant about that issue?</p>	<p>1 Mr. Bobal on August 12th, 2010.</p> <p>2 A. Okay.</p> <p>3 Q. Did you ever receive a</p> <p>4 confirmation of delivery for that?</p> <p>5 A. No, it was ordinary mail.</p> <p>6 I kind had messed these documents</p> <p>7 up.</p> <p>8 Q. So you paid \$1.15 to the</p> <p>9 post office to send something ordinary</p> <p>10 mail?</p> <p>11 A. I know, it was kind of</p> <p>12 expensive, it used to be 90 cents.</p> <p>13 Q. What purpose does a</p> <p>14 certificate of mailing serve, in your</p> <p>15 mind?</p> <p>16 A. I don't know. I just know</p> <p>17 that they have a certificate of mailing</p> <p>18 and I used them here and there before,</p> <p>19 so once in a while I'll use them.</p> <p>20 Q. Any particular reason when</p> <p>21 you decide to use them versus not use</p> <p>22 the certificate of mailing?</p> <p>23 A. I first started using them</p> <p>24 maybe in the 80's, 1980's or something,</p> <p>25 or 90's. I can't remember.</p>
Page 111	Page 113
<p>1 A. He told me never to contact</p> <p>2 him, don't write him, don't telephone</p> <p>3 him, he won't accept letters from me,</p> <p>4 phone calls, e-mails, everything.</p> <p>5 Q. And do you know whether or</p> <p>6 not that was in connection with</p> <p>7 counsel's direction after you had filed</p> <p>8 your lawsuit?</p> <p>9 A. No, it was before he was</p> <p>10 involved.</p> <p>11 Q. What date did Mr. Bobal</p> <p>12 begin telling you not to send him</p> <p>13 letters and correspondence?</p> <p>14 A. Probably October 25th, 2010.</p> <p>15 Q. Probably?</p> <p>16 A. Well, if you give me the</p> <p>17 initial disclosures, based on my memory</p> <p>18 in good faith I'll say October 25th,</p> <p>19 2010.</p> <p>20 Q. And he told you to bring</p> <p>21 those issues to your union, correct?</p> <p>22 A. I believe so, yes.</p> <p>23 Q. Just quickly looking at</p> <p>24 Deposition Exhibit 9, it's your</p> <p>25 certificate of mailing for the letter to</p>	<p>1 Q. So did you ever receive any</p> <p>2 confirmation from the post office or</p> <p>3 otherwise that Mr. Bobal received your</p> <p>4 August 12, 2010 correspondence?</p> <p>5 A. That's all I got for</p> <p>6 confirmation, they stamped it.</p> <p>7 Q. And they stamped that at the</p> <p>8 time that you mailed the letter,</p> <p>9 correct?</p> <p>10 A. Yeah.</p> <p>11 Q. Let's talk about Mr. Taraba,</p> <p>12 you identified him as somebody that you</p> <p>13 consider engaged in retaliation for your</p> <p>14 2010 vehicle issue complaint. What did</p> <p>15 Mr. Taraba do that you considered</p> <p>16 retaliation?</p> <p>17 A. Repeat that, please.</p> <p>18 Q. You mentioned Mr. Taraba as</p> <p>19 an individual who you believed engaged</p> <p>20 in retaliation for your 2010 vehicle</p> <p>21 issue complaint, what did Mr. Taraba do</p> <p>22 that you considered retaliation?</p> <p>23 A. Well, during the 9-14-2010</p> <p>24 meeting, you know, we -- everybody</p> <p>25 witnessed and caught him in a lie saying</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 114	Page 116
<p>1 he recalled me to work.</p> <p>2 Q. Anything else that Mr. Taraba</p> <p>3 did that you considered retaliation?</p> <p>4 A. Misleading all on the</p> <p>5 9-14-2010 meeting.</p> <p>6 Q. I'm sorry, misleading what?</p> <p>7 A. Misleading their positions on</p> <p>8 my wage claim and...</p> <p>9 Q. To what are you referring</p> <p>10 when you say misleading concerning their</p> <p>11 position on your wage claim at the</p> <p>12 9-14-2010 meeting?</p> <p>13 A. On the 9-14-2010 meeting he</p> <p>14 was lying about things and I told him</p> <p>15 don't do that.</p> <p>16 Q. What was Mr. Taraba lying</p> <p>17 about?</p> <p>18 A. He said he called for me to</p> <p>19 return to work.</p> <p>20 Q. What else was Mr. Taraba</p> <p>21 lying about, in your opinion?</p> <p>22 A. He said he -- he said he</p> <p>23 left messages, he said he talked to my</p> <p>24 grandmother. I said, my grandmother is</p> <p>25 85, she would tell me if you called,</p>	<p>1 answered the question so let me just try</p> <p>2 one more time. Anything else that you</p> <p>3 are claiming Mr. Taraba lied about</p> <p>4 during the September 14, 2010 meeting</p> <p>5 other than you said he stated he</p> <p>6 recalled you to work and he'd left</p> <p>7 messages for you at your home?</p> <p>8 A. At the time that was what we</p> <p>9 found out.</p> <p>10 Q. At the time that's what we</p> <p>11 found out, who is we?</p> <p>12 A. I would say I witnessed him</p> <p>13 lying.</p> <p>14 Q. You witnessed him making a</p> <p>15 statement which you interpreted as</p> <p>16 lying, correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Do you have an answering</p> <p>19 machine at the Jeanette Drive location?</p> <p>20 A. Yes.</p> <p>21 Q. Is it digital, what kind of</p> <p>22 answering machine is it?</p> <p>23 A. It's got the little micro</p> <p>24 cassette tape about this big, maybe an</p> <p>25 inch and a half or so, real small.</p>
Page 115	Page 117
<p>1 she's been wanting me to go back to</p> <p>2 work.</p> <p>3 Q. I'm sorry, she doesn't want</p> <p>4 you to go back to work?</p> <p>5 A. She wants me to go back to</p> <p>6 work, she's tired of me being around the</p> <p>7 residence, thinks I'm a lazy individual</p> <p>8 not working, it's a disgrace.</p> <p>9 Q. So is there anything else</p> <p>10 that you believe Mr. Taraba lied about</p> <p>11 during the 9-14-2010 meeting that you</p> <p>12 considered retaliation?</p> <p>13 A. Well, like I said, he walked</p> <p>14 out along with Bobal during that</p> <p>15 meeting, so this is the result of it.</p> <p>16 Q. Is there anything else that</p> <p>17 Mr. Taraba did that you considered</p> <p>18 retaliation?</p> <p>19 A. He probably participated in</p> <p>20 the 10-15-10 permanent layoff.</p> <p>21 Q. Anything else?</p> <p>22 A. And termination.</p> <p>23 Q. Anything else?</p> <p>24 A. That should cover it.</p> <p>25 Q. And I'm not sure we actually</p>	<p>1 Q. Mr. Stimmel, you said that</p> <p>2 you believe Mr. Stimmel engaged in some</p> <p>3 conduct that you considered retaliation.</p> <p>4 What conduct did you believe Mr. Stimmel</p> <p>5 engaged in that you considered</p> <p>6 retaliation for your 2010 vehicle issue</p> <p>7 complaint?</p> <p>8 A. Participating input in the</p> <p>9 10-15-10 permanent layoff and</p> <p>10 termination.</p> <p>11 Q. Anything else you believe Mr.</p> <p>12 Stimmel engaged in that you considered</p> <p>13 retaliation for your 2010 vehicle issue</p> <p>14 complaint?</p> <p>15 A. Repeat that, please.</p> <p>16 Q. Anything else that you</p> <p>17 believe Mr. Stimmel did that you</p> <p>18 considered retaliation for your 2010</p> <p>19 vehicle issue complaint?</p> <p>20 A. That covers it.</p> <p>21 Q. Do you know if Mr. Stimmel</p> <p>22 knew you had complained about the</p> <p>23 vehicle issue?</p> <p>24 A. I'm sure.</p> <p>25 Q. Do you have any personal</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 118	Page 120
<p>1 knowledge that Mr. Stimmel knew you 2 complained about the vehicle issue? 3 A. I don't have any personal 4 knowledge, I haven't seen the man. 5 MS. MCARDLE: I'm just going -- 6 I have one more line of questioning and 7 we can take a break if that's okay with 8 you? 9 MR. ROSSI: Sure. 10 Q. Are there any employees that 11 you believe were treated better than you 12 were who engaged in similar conduct, 13 meaning complained about a vehicle issue 14 or other type of complaint that you're 15 aware of? 16 A. I believe I was the only one 17 who cared about safety, health and 18 safety. None of them guys cared, 19 beating on the forks with hammers to get 20 them started with steel pipes. They 21 don't care if the lights work, go 22 outside in the dark. Stepping over 23 shrink wrap, they don't care. I was 24 probably the only one that cared. 25 Cleaning up shrink wrap. All them</p>	<p>1 say and regret to say but John's son 2 passed away, got killed in a bike 3 accident. They're neighbors so John and 4 Ryan Cozart, John Taraba are pretty 5 close. When Ryan had a DUI in the past 6 they used to clock him in and out years 7 ago, favorable treatment plus he gets 8 more pay than everybody else too. It's 9 not even in the collective bargaining 10 agreement. 11 Q. He being Ryan? 12 A. Yes. Couple other guys get 13 more pay too but nobody cares. 14 Q. Who else gets more pay other 15 than Mr. Cozart? 16 A. I think Ryan Cozart even 17 makes more money than the one guy that's 18 been there since the 60's or 70's. 19 Q. Who's that? 20 A. Sam Rowbottom or Rottenbottom 21 or -- I'm sorry, something with an R. 22 Q. Sam Rowbottom, 23 ROWBOTTOM? 24 A. Yeah. 25 Q. Anyone other than Ryan</p>
Page 119	Page 121
<p>1 people out there got workers' come 2 claims, I don't have any. 3 Q. You didn't file a workers' 4 comp claim? 5 A. No, I never got hurt out 6 there. 7 Q. Are there any employees at 8 Youngstown that didn't make a similar 9 type of complaint concerning a vehicle 10 issue or otherwise that you think were 11 treated better than you? 12 A. Repeat that question. 13 Q. Are there any employees at 14 Youngstown who did not make a similar 15 type of complaint to the vehicle issue 16 or other, I think you referred to them 17 as safety type of complaints, who were 18 treated better than you? 19 A. Of course. 20 Q. Who were those individuals? 21 A. There's Tony Nicastro who's 22 friends with Danny up front, manger, 23 they golf together. Ryan Cozart and 24 John Taraba, their sons was friends in 25 school with each other. I feel bad to</p>	<p>1 receive more pay? 2 A. Bill DiPiero(sic), I think he 3 gets additional pay. I think Merl(sic) 4 Moyer, he used to get additional pay 5 too. 6 Q. Merrill Moyer? 7 A. MERRIL, I think. 8 Q. MERRILL, MOYER. 9 A. And I think Tony too 10 actually gets more pay because he's a 11 utility guy and they give him other 12 rates. 13 Q. And the basis for your 14 knowledge that these individuals are 15 receiving more pay is what? 16 A. Ryan himself said he gets 17 paid more than everybody and he feels 18 bad that he gets paid more than Sam, 19 payroll records will show it. I seen 20 some records with -- when they made an 21 incorrect pay rate, everybody got 22 additional pay, you can see on the 23 records certain people get paid more and 24 figure them out. But Ryan, he told me 25 directly.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 122	Page 124
<p>1 Q. Did you see Ryan's personnel 2 file? 3 A. I'm not in management, how 4 am I going to see his personnel file? 5 Q. So similarly you didn't see 6 the personnel file of any of other 7 individuals you've referenced? 8 A. Say that again, please. 9 Q. Similarly then you didn't see 10 the personnel files of any of the 11 individuals that you just referenced? 12 A. I don't have that privilege. 13 Q. Do you know how long -- with 14 regards to pay I think you included Sam, 15 Merrill, Bill and Tony, do you know how 16 long they've been receiving, as you say, 17 more pay? 18 A. You'd have to ask them. 19 Q. So you don't have any 20 personal knowledge of how long they've 21 been receiving more pay? 22 A. Personal acknowledge? You 23 have to ask them, I don't know. 24 Q. Now, with regards to Tony 25 Nicastro, and that's N I C A S T R O?</p>	<p>1 A. It's obviously a perk, I 2 mean, you got a problem, go see Denny. 3 Q. Is Denny also known as 4 Dennis Barnett? 5 A. No, that's a driver. 6 Q. Right. So Denny is no 7 longer with the company? 8 A. I don't know, you'd have to 9 ask the company agents. 10 Q. Do you recall Denny's last 11 name? 12 A. No, I'm sorry, I don't. 13 Q. And then you mentioned Ryan 14 Cozart and John Taraba being friends, so 15 are you saying that Ryan and John were 16 treated better than you because of their 17 friendship? 18 A. They got a history together, 19 their kids went to school together, 20 special treatment. 21 Q. And what's the special 22 treatment Mr. Cozart received, that was 23 the more pay? 24 A. Well, he can come and go as 25 he please, you know, just different</p>
Page 123	Page 125
<p>1 A. Yeah. 2 Q. You said he was treated 3 better than you because he's friends 4 with Danny, is that what you said? 5 A. Who's Danny? 6 Q. I don't know. You said 7 because he's friends with -- I thought 8 it was Danny who was in front or 9 something like that, what did you -- 10 A. There was a manager named 11 Denny -- 12 Q. Denny, okay. 13 A. -- that he was friends with. 14 I think he got him hired in there, so 15 he got some influence from the front, I 16 guess. 17 Q. And Tony, do you know his 18 hire date? 19 A. Yeah, I have to look at the 20 seniority sheet. 21 Q. So the basis for your 22 statement that Mr. Nicastro was treated 23 better than you is because he's friends 24 with Denny or when Denny worked there he 25 was friends with Denny?</p>	<p>1 stuff that come up, little things. 2 Q. Do you know Mr. Cozart's 3 hire date? 4 A. You have to look at the 5 seniority sheet. 6 Q. How about Mr. Taraba, what 7 special treatment did Mr. Taraba 8 receive? 9 A. What do you mean? 10 Q. I thought that's what you 11 were saying, that Mr. Cozart and Mr. 12 Taraba both were treated better than 13 you? 14 A. Mr. Taraba is a manager, he 15 can do whatever he wants, he can go 16 golfing late in the day if he wants. 17 Q. Now, you said Mr. Nicastro 18 is a utility person? 19 A. Yeah. 20 Q. Mr. Rowbottom, warehouse 21 position? 22 A. The morning day turn, yes. 23 Q. Mr. Moyer is also a 24 warehouse position? 25 A. He used to be. I mean,</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 126	Page 128
<p>1 whatever, I believe so, yeah, warehouse. 2 I heard he got hurt so they put him on 3 light duty or changed his job because 4 he's got more seniority. Maybe used the 5 procedure to bump somebody out or maybe 6 they posted the job, because he's 7 probably number two so he probably 8 bumped somebody out because he can do 9 that. 10 Q. Was Mr. Moyer morning as 11 well at the time you were aware of him? 12 A. I think at that time he was. 13 I think he bumped somebody or 14 transferred or they created a special 15 job for him. 16 Q. How about Mr. DiPietro, he's 17 warehouse, was he morning as well? 18 A. He was -- excuse me, sorry, 19 he was nights just like me. He got 20 hurt too for a while, I don't know if 21 they put him on light duty. 22 Q. What about Mr. Nicastro, he's 23 warehouse -- oh, no, I'm sorry, you said 24 utility? 25 A. Yes.</p>	<p>1 or something. 2 Q. So you claim that ABC should 3 have issued a COBRA notice to you within 4 44 days of your termination, is that 5 right? 6 A. Is that the law? 7 Q. Well, I'm asking what your 8 claim is. 9 A. Of course. 10 Q. Do you know why ABC didn't 11 issue a COBRA notice until February 12 18th, 2011? 13 A. Because they're dealing with 14 this situation in litigation. 15 Q. You're guessing, right? 16 A. I don't know why that they 17 did that, you have to ask them. 18 Q. Do you know whether ABC has 19 a third party administrator that handles 20 the issuance of COBRA notices? 21 A. Yeah, we went round and 22 round with you with Hewitt Associates, 23 and you said don't call them and then 24 you said call them, so we got a lot of 25 confusion back and forth.</p>
Page 127	Page 129
<p>1 Q. Morning or night? 2 A. Oh, gee, I think he -- I 3 don't know if he had a floating 4 schedule. I think he come in after 5 noon or late morning. His shift 6 interacted with mine. In other words, 7 he was earlier than my time. 8 Q. Earlier than your time of 9 employment or earlier than your start 10 time? 11 A. Start time. 12 Q. Now, let's just touch upon 13 your COBRA claim really briefly. My 14 understanding is that your COBRA claim 15 is that you claim the COBRA notice 16 issued to you by ABC was not timely? 17 MR. ROSSI: I'm sorry, was not 18 what? 19 Q. Timely. 20 A. That's true, that's a fact. 21 Q. That's the basis of your 22 claim, is that you're saying that the 23 COBRA notice issued by ABC was not 24 timely? 25 A. I got it the end of February</p>	<p>1 Q. Well, sir, I don't know what 2 your attorney imparted to you as to 3 communications that I had with him 4 because I certainly haven't talked to 5 you before today, is that right? 6 A. Sure, sure. 7 Q. Do you know whether any 8 computer system errors may have occurred 9 that impacted the issuance of the COBRA 10 notice to you? 11 A. Not that I know of. 12 Q. Do you have any personal 13 knowledge about computer error issues 14 that may have occurred in relation to 15 the issuance of your COBRA notice? 16 A. I don't work in 17 administrative computer programing, no. 18 I don't know, you have to ask them. 19 Q. A subsequent COBRA notice was 20 issued on or about March 23rd, 2011 to 21 you, correct? 22 A. I believe so. 23 Q. So just a little over a 24 month after the first notice went out 25 you received another notice, correct?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 130	Page 132
<p>1 A. Yes, due to all the 2 confusing phone calls back and forth. 3 Q. And then that notice, I 4 believe, gave you until May 29th, 2011 5 to elect COBRA, correct? 6 A. I not sure, the paperwork is 7 not in front of me. I assume so. 8 Q. And you said you're currently 9 receiving health benefits through COBRA, 10 correct? 11 A. Yes, I have benefits. 12 Q. Is that dental only? 13 A. At this time. 14 Q. Looking back at Deposition 15 Exhibit 1, the complaint. 16 A. You said 1? I'm sorry. 17 Q. Yes. Deposition Exhibit 1. 18 A. I got a little disorganized 19 here, I apologize. I'm sorry. After 20 the holiday weekend. 21 Q. Looking at that document you 22 would agree with me that that complaint 23 was filed on March 1st, 2011? 24 A. I have to look. I don't see 25 a time stamp. Yeah, yeah.</p>	<p>1 2007, recognizing this is OSHA's 2 document to you, do the complaint items 3 that OSHA has listed accurately reflect 4 the complaint you raised to OSHA on 5 September 20, 07? 6 A. Say that again, please. 7 Q. Do the complaint items that 8 OSHA has listed in its letter to you of 9 September 27th, 07 accurately reflect 10 the items that you raised to OSHA around 11 that time? And if it makes it easier 12 I'm specifically looking at how in the 13 letter it says complaint item 1 and then 14 it states something, complaint item 2 15 and then it states something, as opposed 16 to the results of the OSHA 17 investigation. 18 A. Appears to be, yes. 19 Q. Earlier in your testimony you 20 said that you had gone to the Youngstown 21 facility on August 11th, 2010 and that's 22 when you had the conversation with Mr. 23 Cozart you've already testified to, 24 correct? 25 A. Correct.</p>
Page 131	Page 133
<p>1 Q. And that is the first 2 complaint you asserted the COBRA notice 3 violation, correct? 4 A. Yes. 5 MS. MCARDLE: Let's take a break. 6 MR. ROSSI: Okay. 7 (Recess had.) 8 - - - - - 9 (Thereupon, Deposition 10 Exhibit-15 was marked for 11 purposes of identification.) 12 - - - - - 13 BY MS. MCARDLE: 14 Q. Mr. Potts, I'm showing you 15 Deposition Exhibit 15, this is the 16 letter that you produced and it appears 17 to be correspondence from OSHA dated 18 September 27th, 2007, addressed to you 19 from a Robin Medlock, M E D L O C K. 20 Now, again, your claim in this lawsuit 21 does not relate to the 2007 complaint to 22 OSHA, you testified earlier, correct? 23 A. Yes. 24 Q. But in looking at this 25 complaint that you made in September of</p>	<p>1 Q. Prior to August 11th, 2010 2 when was the last time you had 3 physically set foot in the Youngstown 4 facility? 5 A. I can't recall. 6 Q. Was it six months before, 7 could it have been longer than six 8 months before? 9 A. Maybe -- yeah, longer than 10 six months, definitely. 11 Q. So you hadn't -- the 12 earliest time, I guess, you had been at 13 the Youngstown facility, according to 14 your testimony then, prior to August 15 11th, 2010 was maybe sometime in January 16 or February of 2010, if not earlier? 17 A. Probably earlier. 18 Q. So how about -- let me ask 19 you this question then: Do you believe 20 between September 21st of 09 and 21 December 31st of 09 you set foot inside 22 the Youngstown facility? 23 A. Say that again, please. 24 Q. Do you believe that between 25 September 21st of 09, your layoff, and</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 134	Page 136
<p>1 December 31st of 09 you set foot inside 2 the Youngstown facility? 3 A. December 31st, 2009? 4 Q. Correct. 5 A. No. 6 Q. Do you believe then that the 7 August 11th, 2010 date was the first 8 time you had set foot in the facility 9 since your layoff of September of 09? 10 A. That sounds about right. 11 Q. Now, you didn't file any 12 kind of complaint concerning the vehicle 13 issue with any other public agency other 14 than OSHA, is that right? 15 A. That's the only agency. 16 Q. And you didn't file a police 17 report concerning anything concerning 18 the vehicle issue either, correct? 19 A. OSHA has the authority, no. 20 Q. And do you know what 21 penalties OSHA would apply to the type 22 of issues you were raising in 2010 23 concerning -- 24 A. What do you mean? 25 Q. Do you know what penalties,</p>	<p>1 A. Yeah, yes. 2 Q. Is that your handwriting? 3 A. It appears to be. 4 Q. And this is a copy of the 5 agreement between Seven Up Youngstown, a 6 subsidiary of the Dr. Pepper/Seven-Up 7 Bottling Group, DPSUBG, and Teamsters 8 Local 377 for the period January 29, 9 2006 through January 28, 2010, correct? 10 A. Absolutely. 11 Q. Is it your understanding that 12 the terms of this agreement governed 13 your participation in the bargaining 14 unit for Teamsters Local 377 during 15 those dates? 16 A. What do you mean? 17 Q. If you had a question 18 concerning wages, vacation, or 19 otherwise, as a member of the bargaining 20 unit for Teamsters Local 377 you'd pick 21 up the contract and look at it, correct? 22 A. Sure, sure. 23 Q. This document for ease is 24 Bates labeled ABC 56 through ABC 77, if 25 you could turn to ABC 59 for me,</p>
Page 135	Page 137
<p>1 if any, OSHA would apply or be able to 2 apply to the type of issues you raised 3 that were the vehicle issues? 4 A. Whatever they decide. 5 Q. So you don't know kind of 6 the universe of penalties OSHA may be 7 able to apply to the vehicle issues you 8 raised in 2010? 9 A. I'm not familiar with all 10 that code language. 11 ----- 12 (Thereupon, Deposition 13 Exhibit-16 was marked for 14 purposes of identification.) 15 ----- 16 Q. Handing you what's been 17 marked Deposition Exhibit 16, you have 18 seen this document before, correct? 19 A. Yes. 20 Q. And actually if you would 21 flip through Deposition Exhibit 16 22 there's some handwriting throughout the 23 document. Do you agree with me there's 24 some handwriting throughout that 25 document?</p>	<p>1 please, and let me know when you're 2 there. 3 A. I'm there. 4 Q. Section 1 under Article 1, 5 recognition, the last sentence of 6 Section 1 states, "Delivery drivers, 7 warehousemen, vendor special service 8 employees and merchandisers are 9 sometimes hereinafter referred to 10 collectively as 'employees'." Did I 11 read that correctly? 12 A. Word for word. 13 Q. So you understood after you 14 reviewed the contract that at times 15 during the contract when the contract 16 referred to employees that it meant 17 collectively those categories of 18 services? 19 A. Yeah, it's strange it doesn't 20 say utility. Yes. I never knew that. 21 MR. ROSSI: Wait for a question. 22 THE WITNESS: Sorry. 23 Q. Turning to the next page, 24 there's a section entitled probationary 25 employees, do you see that?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax: 216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 138	Page 140
<p>1 A. Yes.</p> <p>2 Q. The section, numbered Section</p> <p>3 3 and it starts, "A new employee shall</p> <p>4 work under the provision of this</p> <p>5 agreement but shall be employed on a</p> <p>6 trial basis until he has actually worked</p> <p>7 90 days within six calendar months,</p> <p>8 during which period he may be discharged</p> <p>9 without further recourse," and then it</p> <p>10 goes on. Did I read that portion</p> <p>11 correctly?</p> <p>12 A. Word for word.</p> <p>13 Q. So you understood that when</p> <p>14 you started with ABC that you were a</p> <p>15 probationary employee until a period of</p> <p>16 90 days had elapsed at which time you</p> <p>17 may be retained?</p> <p>18 A. Correct.</p> <p>19 Q. Last sentence of that section</p> <p>20 states, "During the probationary period</p> <p>21 a new employee shall be paid the wage</p> <p>22 rates in Article X, Section 2," and then</p> <p>23 there's some handwriting.</p> <p>24 A. Okay.</p> <p>25 Q. Did I read the section of</p>	<p>1 at Article 3, management, Section 1.</p> <p>2 This states, "It is agreed that the</p> <p>3 operation of the territories and the</p> <p>4 direction of the delivery drivers and</p> <p>5 all other employees, including the</p> <p>6 making and enforcing of rules to insure</p> <p>7 orderly and efficient territory and</p> <p>8 warehouse/special services operation,</p> <p>9 including the increase or decrease of</p> <p>10 territories, the determining of same</p> <p>11 employees competency, the right to hire,</p> <p>12 to transfer, to promote, to demote, to</p> <p>13 discharge for cause, to lay off for lack</p> <p>14 of work, are rights vested exclusively</p> <p>15 in the management of the company." Did</p> <p>16 I read that correctly?</p> <p>17 A. Very good.</p> <p>18 Q. Did I read that correctly?</p> <p>19 A. Yes.</p> <p>20 Q. Thank you. So you</p> <p>21 understood by reading this clause that</p> <p>22 there were certain employment actions</p> <p>23 that management reserved exclusive right</p> <p>24 to make, correct?</p> <p>25 A. Right.</p>
Page 139	Page 141
<p>1 the contract correctly?</p> <p>2 A. It appears so.</p> <p>3 Q. Then there's a section next</p> <p>4 -- that follows, I should say, called</p> <p>5 seasonal employees, and that's Section</p> <p>6 4. And this reads in part, "Seasonal</p> <p>7 employees may be hired from April 1st to</p> <p>8 September 30th inclusive and November</p> <p>9 1st to January 15th inclusive. Seasonal</p> <p>10 employees shall be required to join the</p> <p>11 union after 30 days worked for the</p> <p>12 employer in any one or more seasonal</p> <p>13 periods, provided, however, seasonal</p> <p>14 employees will not be entitled to any</p> <p>15 contractual benefits other than the</p> <p>16 negotiated wage stated in Article X,</p> <p>17 Section 3 of this agreement." Did I</p> <p>18 read that correctly?</p> <p>19 A. Word for word.</p> <p>20 Q. So you understood by reading</p> <p>21 this agreement that Dr. Pepper could</p> <p>22 hire seasonal employees during those</p> <p>23 designated time frames, correct?</p> <p>24 A. Sure.</p> <p>25 Q. Turning the page, let's look</p>	<p>1 Q. Have you heard of this</p> <p>2 clause referred to as the management</p> <p>3 rights clause?</p> <p>4 A. Yes.</p> <p>5 Q. Turning to ABC 63.</p> <p>6 A. Say that again, please.</p> <p>7 Q. Sure.</p> <p>8 MR. ROSSI: 63.</p> <p>9 Q. ABC 63.</p> <p>10 A. Got it, got it.</p> <p>11 Q. This is Article 7 as it</p> <p>12 relates to grievance procedures and I'm</p> <p>13 looking specifically at Section 2-Step</p> <p>14 1, do you see that section?</p> <p>15 A. Yes.</p> <p>16 Q. And that says in part, "If</p> <p>17 an employee has a grievance he shall</p> <p>18 reduce such grievance in writing and</p> <p>19 present it to the company within five</p> <p>20 working days after its alleged</p> <p>21 occurrence." Did I read that correctly?</p> <p>22 A. Word for word.</p> <p>23 Q. So you understood that if</p> <p>24 you did have a grievance with company</p> <p>25 you could file that grievance but had to</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 142	Page 144
<p>1 do so within five working day after the 2 alleged incident had occurred? 3 A. Five working days, yes. 4 Q. Let's turn to ABC 65, a 5 section called call back pay, Section 4, 6 and I can certainly read that into the 7 record but my question for you is this, 8 please read that Section 4 and let me 9 know what you've done so. 10 A. Okay. 11 Q. So from reading the contract 12 you understood that merchandisers may 13 work up to seven days a week, the first 14 five days eight-hour shifts at regular 15 rate, sixth day one and a half times 16 their regular rate, seventh day at two 17 times their regular rate? 18 A. That's what it says, it 19 indicates it. 20 Q. Turn to ABC 67, Section 8, 21 and this is part of Article X, wages. 22 This states, "In the event any employee 23 is transferred or assigned by the 24 employer to work in a different 25 classification they shall be paid the</p>	<p>1 Q. All right. Section 1, this 2 section states in part, "The seniority 3 rights of all employees shall be 4 determined from the last date of hiring. 5 Immediately after signing this agreement 6 a seniority list for delivery drivers, a 7 seniority list for warehousemen and a 8 seniority list for special service 9 employees, merchandisers and utility as 10 well as a plant-wide seniority will be 11 posted upon the bulletin board for a 12 period of 30 days, after which the list 13 will be deemed to be correct." Did I 14 read that correctly? 15 A. Word for word. 16 Q. So you understood that after 17 this contract was entered into and a 18 seniority list had been posted, 30 days 19 after the posting of that that seniority 20 list was correct and what the company 21 would use for purposes of any employment 22 decisions, correct? 23 A. Unless in a dispute, correct. 24 Q. Unless a dispute of what? 25 A. The next couple sentences.</p>
Page 143	Page 145
<p>1 highest prevailing rate for all hours of 2 work (any employee in a I rate shall be 3 transferred at the I rate. Any employee 4 in a II rate shall be transferred at 5 the II rate)." Did I read that 6 correctly? 7 A. Word for word. 8 Q. So you understood that in 9 the event an employee was transferred or 10 reassigned by the company to a different 11 job classification they would be making 12 the highest prevailing rate for their 13 work, correct? 14 A. Correct. 15 Q. And by job classification, I 16 think we've been referring to that 17 throughout the deposition, but that 18 includes things like drivers, vending, 19 warehouse, and merchandising, correct? 20 A. Correct. 21 Q. Let's turn to ABC 69, 22 Article 14, seniority. 23 A. Oh, sorry. 24 Q. Are you there? 25 A. Yes.</p>	<p>1 Q. Okay. But prior to the next 2 couple sentences, because I think we're 3 missing each other on this, that under 4 the terms of the contract, if there's no 5 challenge to that seniority list within 6 30 days of executing the contract that 7 list is deemed correct? 8 A. From the CBA 2006 to 2010. 9 Q. Yes. 10 A. Yes. 11 Q. Now, the next section that 12 you're alluding to reads, "In addition, 13 upon request from the union, the company 14 shall provide seniority lists for all 15 classifications as well as plant-wide 16 seniority every six months. In any case 17 of a dispute the records of the company 18 shall be binding unless proven 19 incorrect." Did I read that section 20 correctly? 21 A. Word for word. 22 Q. So you understood the union 23 had the ability to request from the 24 company seniority lists every six months 25 for all classifications as well as</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax: 216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 146	Page 148
<p>1 plant-wide seniority, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And that if there was</p> <p>4 dispute about seniority or those lists,</p> <p>5 that company records were binding unless</p> <p>6 there was proof they were not correct?</p> <p>7 A. Yeah, if somebody chose</p> <p>8 otherwise, yeah.</p> <p>9 Q. The next section, "Plant-wide</p> <p>10 seniority shall apply for purposes of</p> <p>11 permanent layoff, recall from layoff and</p> <p>12 job/annual bidding. However, in the</p> <p>13 event of a permanent layoff due to</p> <p>14 elimination of a position the affected</p> <p>15 employees are entitled to bump by</p> <p>16 seniority and qualifications until the</p> <p>17 least senior employee is displaced, in</p> <p>18 the event of temporary layoffs</p> <p>19 classification seniority shall prevail."</p> <p>20 Did I read that correctly?</p> <p>21 A. Yes. May I also have a pen,</p> <p>22 please?</p> <p>23 Q. Did you want to write on the</p> <p>24 exhibit?</p> <p>25 A. Am I allowed?</p>	<p>1 the event of any temporary layoff,</p> <p>2 classification seniority prevails,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. Let's turn to ABC 70. I'm</p> <p>6 looking at Section 9 which is still part</p> <p>7 of seniority. It states in part, "Under</p> <p>8 the following conditions any employee</p> <p>9 shall lose his seniority (terminated --</p> <p>10 " it says fro employment, close parens,</p> <p>11 but you'd agree with me that probably</p> <p>12 should say for -- or from employment,</p> <p>13 excuse me, correct?</p> <p>14 A. Sure.</p> <p>15 Q. Makes more sense if it says</p> <p>16 terminated from employment than</p> <p>17 terminated fro employment?</p> <p>18 A. Sure, a typo.</p> <p>19 Q. Right. And then it lists a</p> <p>20 number of these conditions under which</p> <p>21 an employee shall lose seniority,</p> <p>22 including subsection D on the next page,</p> <p>23 ABC 71, which states, "If he fails to</p> <p>24 return to work within three days after</p> <p>25 notice from the company to return unless</p>
Page 147	Page 149
<p>1 Q. Sure. If you'd like to.</p> <p>2 A. Or a highlighter, can I use</p> <p>3 a highlighter?</p> <p>4 Q. So there's no confusion why</p> <p>5 don't we use the blue pen --</p> <p>6 A. All right.</p> <p>7 Q. -- because I think there's</p> <p>8 black on there currently.</p> <p>9 A. Sure.</p> <p>10 Q. So from this section you</p> <p>11 understood that in the event of a</p> <p>12 permanent layoff, recall from layoff or</p> <p>13 job/annual bidding, plant-wide seniority</p> <p>14 shall apply, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Then you also understood</p> <p>17 though that there was an exception that</p> <p>18 stated, "In the event of a permanent</p> <p>19 layoff due to elimination of a position,</p> <p>20 the affected employees are entitled to</p> <p>21 bump by seniority and qualifications</p> <p>22 until the least senior employee is</p> <p>23 displaced," correct?</p> <p>24 A. Correct.</p> <p>25 Q. And that temporary layoff, in</p>	<p>1 circumstances beyond his control prevent</p> <p>2 him from notifying the company within</p> <p>3 three days. Such notice shall be made</p> <p>4 by registered letter or telegram." Did</p> <p>5 I read that correctly?</p> <p>6 A. Word for word.</p> <p>7 Q. So you understood then if</p> <p>8 the company did contact you to return to</p> <p>9 work and you didn't respond in any way,</p> <p>10 shape or form within three days you</p> <p>11 could lose your seniority, correct?</p> <p>12 A. Sure.</p> <p>13 Q. And be terminated, in fact,</p> <p>14 correct?</p> <p>15 A. Sure.</p> <p>16 Q. Section 13, still in</p> <p>17 seniority, same page, ABC 71, this</p> <p>18 reads, "If an employee is on an</p> <p>19 involuntary layoff he will not lose his</p> <p>20 seniority for a period of one year from</p> <p>21 the date of layoff." Did I read that</p> <p>22 correctly?</p> <p>23 A. Word for word.</p> <p>24 MR. ROSSI: Where is she reading?</p> <p>25 MS. MCARDLE: Section 13, Mike.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 150	Page 152
<p>1 MR. ROSSI: Thank you.</p> <p>2 Q. Certainly you understood that</p> <p>3 if you were placed on layoff you</p> <p>4 maintained your seniority for a period</p> <p>5 of one year, correct?</p> <p>6 A. Yes.</p> <p>7 Q. But beyond that, if you were</p> <p>8 laid off for more than one year you</p> <p>9 lost your seniority, correct?</p> <p>10 A. Yes, lost everything, yes.</p> <p>11 Q. Lost everything meaning what,</p> <p>12 you were terminated at that point?</p> <p>13 A. Union benefits, union wages.</p> <p>14 Q. Turning to ABC 72, Article</p> <p>15 16, health and welfare, do you see where</p> <p>16 I am at the bottom of the page?</p> <p>17 A. What page?</p> <p>18 Q. The bottom of --</p> <p>19 MR. ROSSI: 72.</p> <p>20 Q. -- 72. Thanks, Mike.</p> <p>21 A. Oh, yes, yes, yes.</p> <p>22 Q. Article 16, health and</p> <p>23 welfare, Section 1, health and dental</p> <p>24 insurance. This section states in part,</p> <p>25 "It is agreed that each seniority</p>	<p>1 Q. So from reviewing the</p> <p>2 collective bargaining agreement you</p> <p>3 understood that up to the maximum of six</p> <p>4 merchandisers who had achieved 2,000</p> <p>5 work hours in a year were entitled to</p> <p>6 health benefits under the plan, correct?</p> <p>7 A. Yeah, those guys are lucky,</p> <p>8 yeah, they're allowed.</p> <p>9 - - - - -</p> <p>10 (Thereupon, Deposition</p> <p>11 Exhibit-17 was marked for</p> <p>12 purposes of identification.)</p> <p>13 - - - - -</p> <p>14 Q. Showing you what's been</p> <p>15 marked Deposition Exhibit 17, have you</p> <p>16 seen this document before?</p> <p>17 A. Yes.</p> <p>18 Q. This is the agreement between</p> <p>19 7-Up Youngstown and Teamsters Local 377</p> <p>20 for the period January 29, 2010 through</p> <p>21 January 29, 2013, correct?</p> <p>22 A. Yes.</p> <p>23 Q. You would agree with me that</p> <p>24 the terms of this contract would govern</p> <p>25 your employment with ABC from those</p>
Page 151	Page 153
<p>1 employee of the company who has</p> <p>2 completed his probationary period in</p> <p>3 addition to the four most senior</p> <p>4 merchandisers, regardless of number of</p> <p>5 working hours, shall be given an</p> <p>6 opportunity to enroll in the company's</p> <p>7 Flex Plan in existence on January 1st,</p> <p>8 1999." Did I read that correctly?</p> <p>9 A. Word for word.</p> <p>10 Q. Let's flip to the next page,</p> <p>11 ABC 73, Section 4, health benefits,</p> <p>12 merchandisers, do you see where I am?</p> <p>13 A. Yes.</p> <p>14 Q. It's about the middle of</p> <p>15 that paragraph, the sentence begins,</p> <p>16 "the company will allow," do you see</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. "The company will allow</p> <p>20 merchandisers who achieve 2,000 work</p> <p>21 hours to enroll in the Flex Plan then</p> <p>22 in place, up to a maximum up of six</p> <p>23 over the life of this contract." Did I</p> <p>24 read that correctly?</p> <p>25 A. Word for word.</p>	<p>1 dates, January 29, 2010 through January</p> <p>2 29, 2013, correct?</p> <p>3 A. Correct.</p> <p>4 Q. And without reading this into</p> <p>5 the record I'd like you to -- I'm going</p> <p>6 to identify certain sections and I want</p> <p>7 you to read them and let me know if you</p> <p>8 perceive a difference between the 2010</p> <p>9 through 2013 contract verbiage versus</p> <p>10 the 2006-2010 verbiage, okay? That will</p> <p>11 save a little time.</p> <p>12 A. Yes, that supersedes, yes.</p> <p>13 Q. Let's look at ABC 285.</p> <p>14 Article 3, management, section 1.</p> <p>15 A. Yes.</p> <p>16 Q. As you read Section 1 do you</p> <p>17 perceive a difference between this</p> <p>18 version of Section 1 and what we just</p> <p>19 read in the prior contract?</p> <p>20 A. I'll stipulate it would be</p> <p>21 the same.</p> <p>22 Q. How about 291, ABC 291,</p> <p>23 Section 4 of Article 10, wages, same</p> <p>24 question. As you read Section 4 do you</p> <p>25 perceive any differences from the</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 154	Page 156
<p>1 verbiage in the 2010 to 2013 contract 2 versus the 2006 to 2010 contract? 3 A. I guess I better look at it. 4 What page is the other one on? 5 Q. Sure. The other one is on 6 ABC 67. 7 A. What are we looking at? 8 Q. In ABC 291 it's Section 4. 9 A. Okay. What am I looking at 10 on the other one? 11 Q. Section 8 on 67. 12 A. It looks different. Yeah, 13 it's different. 14 Q. And the difference is that 15 the last section or the last sentence, 16 rather, of the section is different. In 17 the 2010-2013 contract it states, "In 18 the event of a transfer or reassignment 19 by the employer the employees will not 20 be paid less than their current rate 21 unless stipulated by another section of 22 the agreement," correct? 23 A. Correct. Your previous 24 question I didn't look at the -- I 25 didn't defer to it. You want me to</p>	<p>1 this in one shot? Section 7 and 2 Section 10, if you could take a look at 3 Section 7 D and please compare that, if 4 you'd like, to Section 9 D of the prior 5 contract? 6 A. What Bates number, please? 7 Q. Sure. 70. 8 A. Compare it to what? 9 Q. Compare it to Section 9 D, 10 as in David. 11 A. On 7 there's no D. 12 Q. I'm sorry? 13 A. On your Exhibit 16 I don't 14 see D on page -- 15 Q. It's on the next page, that 16 section starts on that page. 17 A. Oh, you said Bates number 18 70. 19 Q. Correct. That's where the 20 section starts. 21 A. Okay. Section D? Yeah, 22 they're different, they run together 23 right off the bat, C and D. 24 Q. But the substance of D and 25 the substance of 7 D?</p>
Page 155	Page 157
<p>1 look at the other one? 2 Q. You can if you want. I'll 3 represent to you it is the same but you 4 can certainly feel free to take a look 5 if you'd like. 6 A. I trust you. 7 Q. Let's look at 293 of the 8 2010-2013 contract. I'm specifically 9 looking, it's Section 1 of the seniority 10 Article 14 section, the portion that 11 begins, "in case of a dispute," do you 12 see where I am? 13 A. Yes. 14 Q. Why don't you read that 15 through seniority shall prevail and -- 16 to yourself, and let me know if you see 17 any difference between that language and 18 the language from the prior contract. 19 A. Where is it at on the prior 20 contract, please? 21 Q. Sure. It is page 69. 22 A. Okay. Jumping back and 23 forth it appears to be the same. 24 Q. Let's turn the page to ABC 25 294, Section 7, and why don't we do</p>	<p>1 A. Yeah, they're different, 2 language is different. 3 Q. And what language is 4 different? It says, the prior contract 5 says, such notice shall be made by 6 registered letter or telegram, 7 whereas -- 8 A. Yeah. 9 Q. -- the subsequent says just 10 by registered letter, that's the 11 difference, correct? 12 A. Yeah, I see that, it's 13 different, yeah. 14 Q. That's the difference you're 15 referring to? 16 A. Yes. 17 Q. And then Section 10 of the 18 new contract and Section 13 of the old 19 contract, new contract is 294, old 20 contract is 71. 21 A. Okay. Section 10 and 22 section what? 23 Q. 13 of the old. 24 A. Okay. Got it. 25 Q. Those are the same, correct?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 158	Page 160
<p>1 A. Correct.</p> <p>2 Q. Now, we talked kind of</p> <p>3 generally about your employment with</p> <p>4 ABC, I'd like to go into a little more</p> <p>5 detail.</p> <p>6 A. Sure, go ahead.</p> <p>7 Q. You were hired July of 07 as</p> <p>8 a warehouse loader, correct?</p> <p>9 A. Correct.</p> <p>10 Q. I think we talked about</p> <p>11 this, you worked, we're calling it the</p> <p>12 second shift, you said ABC really didn't</p> <p>13 have a name for it but you didn't start</p> <p>14 until approximately 4:00 p.m., correct?</p> <p>15 A. True.</p> <p>16 Q. Your duties as a warehouse</p> <p>17 loader included reviewing electronic</p> <p>18 orders assigned to truck routes, pulling</p> <p>19 product to filling those orders and</p> <p>20 placing product on trucks for shipment,</p> <p>21 is that right?</p> <p>22 A. What do you mean by</p> <p>23 electronic orders?</p> <p>24 Q. You received orders that came</p> <p>25 into the warehouse or you reviewed</p>	<p>1 take a look and let me know if I have</p> <p>2 that correct.</p> <p>3 A. Appears to be.</p> <p>4 Q. Looking at the first page of</p> <p>5 Deposition Exhibit 25.</p> <p>6 A. Say again, please.</p> <p>7 Q. Sure. Looking at the first</p> <p>8 page of Deposition Exhibit 25, your</p> <p>9 resume?</p> <p>10 A. Yes.</p> <p>11 Q. Is there anything not</p> <p>12 accurate in your resume?</p> <p>13 A. It appears to be in order.</p> <p>14 MR. ROSSI: Did you hear his</p> <p>15 answer?</p> <p>16 MS. MCARDLE: I did, thank you.</p> <p>17 MR. ROSSI: Okay.</p> <p>18 Q. Turning to the application</p> <p>19 portion of Deposition Exhibit 25, same</p> <p>20 question, please take the time you need</p> <p>21 to review the application, but is there</p> <p>22 anything contained in that application</p> <p>23 that is not accurate?</p> <p>24 A. It appears to be in order.</p> <p>25 Q. I notice on -- I'll use the</p>
Page 159	Page 161
<p>1 orders that came into the warehouse,</p> <p>2 we'll say in any form, you pulled</p> <p>3 product to fill those orders and then</p> <p>4 you placed product on trucks for</p> <p>5 shipment?</p> <p>6 A. We had paper documents, load,</p> <p>7 unload, yeah, yeah.</p> <p>8 Q. And generally would you agree</p> <p>9 that Thursday was the warehouse's</p> <p>10 busiest day because of Friday shipments</p> <p>11 for the weekend?</p> <p>12 A. Yeah, kind of doubled up.</p> <p>13 Up.</p> <p>14 - - - - -</p> <p>15 (Thereupon, Deposition</p> <p>16 Exhibit-25 was marked for</p> <p>17 purposes of identification.)</p> <p>18 - - - - -</p> <p>19 Q. Showing you what's been</p> <p>20 marked Deposition Exhibit 25, my</p> <p>21 understanding is this is a copy of the</p> <p>22 resume you submitted to the company and</p> <p>23 the employment applications that you</p> <p>24 filled out around the same time for</p> <p>25 employment with the company, but please</p>	<p>1 Bates number for those because I think</p> <p>2 it's easier, ABC 137.</p> <p>3 A. Okay.</p> <p>4 Q. Under references you've</p> <p>5 listed Michael D. Rossi, and I think</p> <p>6 that says CPA, is that right?</p> <p>7 A. No, it says LPA.</p> <p>8 Q. Oh, LPA. What does LPA</p> <p>9 stand for?</p> <p>10 A. Licensed practicing attorney.</p> <p>11 Q. I've never seen that acronym</p> <p>12 before.</p> <p>13 A. Really?</p> <p>14 Q. Really.</p> <p>15 A. Okay.</p> <p>16 Q. I didn't realize that was</p> <p>17 funny.</p> <p>18 A. I didn't either.</p> <p>19 Q. So you've listed your</p> <p>20 attorney Mr. Rossi, who's sitting here</p> <p>21 presently next to you in your</p> <p>22 deposition, as a reference for</p> <p>23 employment purposes at Dr. Pepper</p> <p>24 Snapple Group, correct?</p> <p>25 A. Well, they wanted references</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 162	Page 164
<p>1 and that's all I can come up with out 2 of the phone book or whatever. Must 3 not be the phone book, I didn't remember 4 his phone number. 5 Q. Looking down at the bottom 6 of that same page, is that your 7 signature, sir? 8 A. Yes. 9 Q. You signed this on or about 10 June 25th, 2007? 11 A. Say that again. 12 Q. You signed this on or about 13 June 25th, 2007, is that right? 14 A. Yeah, I can't tell, 25th, 15 26th, 27th, 28th. 16 Q. Okay. Sometime in late June 17 of 07 you signed this employment 18 application? 19 A. Sure. 20 Q. Under applicant certification 21 there's some typed -- after the all caps 22 statement which actually says, "Please 23 read the following statements carefully, 24 they constitute the conditions under 25 which you might be employed with the</p>	<p>1 that if hired," do you see where I am? 2 A. No -- okay, yeah, yeah, 3 yeah, yeah. 4 Q. "I understand that if hired 5 my employment is 'at will' which means 6 that it is not guaranteed for any period 7 of time and that my employment and 8 compensation may be terminated by the 9 corporation or myself for any reason at 10 any time with or without advance 11 notice." Did I read that correctly? 12 A. Wow, I never recall that, 13 yeah. At will employment, yes. 14 Q. Well, you have a practice of 15 reading documents before you sign them, 16 sir, right? 17 A. Yeah, okay. I thought it 18 was a union company. I didn't know it 19 was at will, okay. 20 MR. ROSSI: Wait for a question. 21 A. Sorry. I lost my pen. 22 Q. Turning to ABC -- off the 23 record. 24 (Discussion off the record.) 25 Q. Turning to ABC 143.</p>
Page 163	Page 165
<p>1 corporation." 2 It states, "I certify that all 3 the foregoing statements are true and 4 correct to the best of my knowledge. I 5 understand that misrepresentation or 6 omission of fact in this application -- 7 " excuse me, "of facts in this 8 application or during interviews may 9 result in the withdrawal of an offer or 10 disciplinary action including 11 termination if I am hired." Did I read 12 that portion correctly? 13 A. Word for word. 14 Q. So you understood at the 15 time that you signed this application 16 and were certifying to this fact that 17 the statements contained in your 18 application were true and correct to the 19 best of your knowledge and you 20 understood that you could be terminated 21 for any misrepresentations contained in 22 your application, correct? 23 A. Sure. 24 Q. Skipping the paragraph to the 25 next paragraph that begins "I understand</p>	<p>1 A. 140 what? 2 Q. 143. There's a section 3 entitled educational data, do you see 4 that? 5 A. Yes. 6 Q. I couldn't quite read it so 7 I wanted you to please identify, are 8 these three separate high schools that 9 you attended? 10 A. Yes. 11 Q. And what high schools were 12 these? 13 A. Howland High School, Warren 14 G. Harding and Warren Western Reserve 15 High School. 16 Q. From which of these high 17 school did you obtain your high school 18 diploma? 19 A. Howland High School. 20 Q. So was it that you took 21 classes at the other high schools or did 22 you attend them for a period of time? 23 A. I attend all three. 24 Q. I'm assuming not 25 simultaneously, you attended them for</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 166	Page 168
<p>1 separate periods of time?</p> <p>2 A. Say that again, please.</p> <p>3 Q. I'm assuming not</p> <p>4 simultaneously, you attended them for</p> <p>5 separate periods of time?</p> <p>6 A. A couple of them.</p> <p>7 Q. So, I'm sorry, that was</p> <p>8 simultaneously you're saying?</p> <p>9 A. Couple of them, yes.</p> <p>10 Q. For what purpose were you</p> <p>11 simultaneously attending schools?</p> <p>12 A. Education.</p> <p>13 Q. So you were taking selected</p> <p>14 classes at Warren G. Harding and Warren</p> <p>15 Western Reserve?</p> <p>16 A. Yes, you got it.</p> <p>17 Q. Of these schools, which are</p> <p>18 public schools?</p> <p>19 A. All of them.</p> <p>20 Q. At the bottom of the same</p> <p>21 page it states, "Have you ever been</p> <p>22 convicted of a felony or a misdemeanor</p> <p>23 other than traffic violations," and you</p> <p>24 checked the no box, is that right?</p> <p>25 A. Yeah.</p>	<p>1 acknowledgment states, "Also, the</p> <p>2 company cannot guarantee you a job. All</p> <p>3 employment with the company is</p> <p>4 terminable at will, which means you may</p> <p>5 resign your employment at any time for</p> <p>6 any reason. No one other than the</p> <p>7 president of the company has any</p> <p>8 authority to change the at will nature</p> <p>9 of your employment. No statements by</p> <p>10 any person shall bind the company to</p> <p>11 continue your employment unless they are</p> <p>12 in writing and signed by the president."</p> <p>13 Did I read that correctly?</p> <p>14 A. Word for word.</p> <p>15 Q. So, again, in signing this</p> <p>16 document above your signature which</p> <p>17 reads, "I have read and understood these</p> <p>18 above statements," you were certifying</p> <p>19 to the company that you had read and</p> <p>20 understood the statements set forth in</p> <p>21 the acknowledgements on this page,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Now, we mentioned John Taraba</p> <p>25 earlier in the deposition and I think</p>
Page 167	Page 169
<p>1 Q. So at that point you were</p> <p>2 certifying to ABC that you had never</p> <p>3 been convicted of a felony or</p> <p>4 misdemeanor other than a traffic</p> <p>5 violation?</p> <p>6 A. Yeah.</p> <p>7 - - - - -</p> <p>8 (Thereupon, Deposition</p> <p>9 Exhibit-26 was marked for</p> <p>10 purposes of identification.)</p> <p>11 - - - - -</p> <p>12 Q. Around the same time that</p> <p>13 you completed your employment</p> <p>14 application you completed the document</p> <p>15 or it appears you completed the document</p> <p>16 that I'm handing you that has now been</p> <p>17 marked as Deposition Exhibit 26.</p> <p>18 A. Okay.</p> <p>19 Q. Is that your signature at</p> <p>20 the bottom of Deposition Exhibit 26?</p> <p>21 A. It appears to be.</p> <p>22 Q. And that looks like June 29,</p> <p>23 2007, is that right, that you signed it?</p> <p>24 A. Correct.</p> <p>25 Q. Last paragraph of the</p>	<p>1 you even pulled out his business card</p> <p>2 and read off his job title. My</p> <p>3 question very basically is, as a</p> <p>4 warehouse loader you reported to John,</p> <p>5 is that right?</p> <p>6 A. No, Ryan Cozart.</p> <p>7 Q. So you had no reporting</p> <p>8 relationship to Mr. Taraba?</p> <p>9 A. In my first day hired John</p> <p>10 advised me, instructed me to report to</p> <p>11 Ryan Cozart.</p> <p>12 Q. So, again, you had no</p> <p>13 reporting relationship to Mr. Taraba, is</p> <p>14 that your testimony?</p> <p>15 A. Well, he's the manager but,</p> <p>16 no, Ryan pretty much is the supervisor,</p> <p>17 whatever, foreman.</p> <p>18 Q. So you didn't consider Mr.</p> <p>19 Taraba your supervisor then?</p> <p>20 A. He was the manager, yes.</p> <p>21 Q. So then again I'm confused</p> <p>22 on your answer. You're saying he was</p> <p>23 your supervisor but you didn't report to</p> <p>24 him?</p> <p>25 A. I didn't report to him, I</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 170	Page 172
<p>1 reported to Ryan Cozart when I got 2 hired, first day he told me report to 3 Ryan Cozart. 4 Q. So from your first day of 5 employment you understood that you 6 reported to Mr. Cozart? 7 A. Yeah, everybody did. 8 Q. Everybody means -- 9 A. In the warehouse. 10 Q. In the entire warehouse? 11 A. At nights. 12 Q. Even on first shift? 13 A. No, Ryan is not on first 14 shift. 15 Q. So your statement refers to 16 employee on the second shift or what 17 we've been calling the second shift? 18 A. Nights. 19 Q. Do you have any idea whether 20 at the time ABC hired you ABC considered 21 you a seasonal employee? 22 A. No. 23 Q. You did have an understanding 24 though that you had probationary status 25 for the first 90 days of your</p>	<p>1 sure. 2 Q. Do you know who made the 3 decision to retain you upon completion 4 of your probationary period? 5 A. You'd have to ask some 6 representative. 7 Q. So you don't know? 8 A. I don't know. 9 Q. Do you know who was involved 10 in the decision to retain you after you 11 completed your probationary period? 12 A. You'd have to contact your 13 client and see, I don't know. 14 Q. Do you know what facts were 15 taken into consideration in deciding to 16 retain you after you completed your 17 probationary period? 18 A. I don't have that privileged 19 information. 20 Q. When you say privileged are 21 you trying to assert that an attorney 22 was involved in that decision? 23 A. I'm not. 24 Q. And after you completed your 25 probationary period you then became</p>
Page 171	Page 173
<p>1 employment? 2 A. Probationary, yes. The 3 grievance is 8291 regarding wages with 4 probation and that should satisfy that. 5 Q. Well -- 6 A. January 3rd, I believe, 2008. 7 Q. Sitting here today are you 8 claiming that you didn't receive wages 9 that you were entitled to for your 10 probationary period? 11 A. Say that again, please. 12 Q. Sitting here today are you 13 trying to claim that you did not receive 14 wages to which you were entitled to 15 during your probationary period? 16 A. I'm not. 17 Q. You completed your 18 probationary period sometime in 19 September of 07, is that right? 20 A. I can't recall. 21 Q. You were hired in July of 07 22 and you had a 90 day probationary 23 period, I guess that would put you, 24 what, in October of 07? 25 A. Not to get picky about it,</p>	<p>1 eligible for certain ABC benefits, is 2 that right? 3 A. Meaning? 4 Q. Different employment 5 benefits, insurance, other things that 6 you became eligible for upon completion 7 of your probationary period, correct? 8 A. Insurance, union benefits, 9 wages, yes. 10 Q. At the time that you started 11 your employment with ABC in 2007 you 12 were aware that at least -- strike the 13 question, please. At the time you 14 started your employment in 2007 were you 15 aware that at least one employee on the 16 day shift was splitting jobs between 17 warehouse and vending? 18 A. Say that again, please. 19 Q. At the time that you were 20 hired in 2007 at ABC were you aware 21 that at least one employee on the day 22 shift was splitting jobs between 23 warehouse and vending? 24 A. When I was hired I didn't 25 know anybody, so no.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 174	Page 176
<p>1 Q. After you started did you</p> <p>2 become aware that an employee was</p> <p>3 splitting time between warehouse and</p> <p>4 vending on the day shift?</p> <p>5 A. I believe there was several</p> <p>6 people splitting stuff. I can't recall.</p> <p>7 I believe so.</p> <p>8 Q. Doug Haus, do you know him?</p> <p>9 A. Yeah, yeah, I remember him,</p> <p>10 big guy.</p> <p>11 Q. And Doug was -- H A U S.</p> <p>12 And Doug was specifically splitting time</p> <p>13 between vending delivery and warehouse</p> <p>14 work, correct?</p> <p>15 A. I don't know what their</p> <p>16 arrangements really are. I just know he</p> <p>17 would make an appearance.</p> <p>18 Q. And that went back to the</p> <p>19 beginning of your employment, you recall</p> <p>20 Mr. Haus making an appearance in the</p> <p>21 warehouse, correct?</p> <p>22 A. Yeah, different people make</p> <p>23 appearance on Thursdays, the heavy day.</p> <p>24 Q. So you started your</p> <p>25 employment sometime in July of 07 and</p>	<p>1 may concern and indicates that you'll be</p> <p>2 on temporary layoff effective January</p> <p>3 14th, 2008, this will continue for an</p> <p>4 undetermined length of time, correct?</p> <p>5 A. Indicating temporary layoff,</p> <p>6 yes.</p> <p>7 Q. And it also indicates this</p> <p>8 will continue for an undetermined length</p> <p>9 of time, correct?</p> <p>10 A. Separate sentence, yes.</p> <p>11 Q. Yes, that is a separate</p> <p>12 sentence and you understood this was</p> <p>13 referring to your layoff, correct?</p> <p>14 A. Sure, it's not a fragment,</p> <p>15 it's two sentences, correct.</p> <p>16 Q. Do you have personal</p> <p>17 knowledge of why you were laid off at</p> <p>18 that time?</p> <p>19 A. Personal knowledge?</p> <p>20 Q. Uh-hum.</p> <p>21 A. No.</p> <p>22 Q. Did you ask anyone why you</p> <p>23 were laid off at that time?</p> <p>24 A. I can assume.</p> <p>25 Q. Did you ask anyone why you</p>
Page 175	Page 177
<p>1 then in January of 08 were laid off,</p> <p>2 correct?</p> <p>3 A. Correct. Right after my</p> <p>4 grievance settled.</p> <p>5 Q. Which grievance are you</p> <p>6 referring to?</p> <p>7 A. Let's say it was 82</p> <p>8 something, 8290.</p> <p>9 Q. Oh, this is the wage issue</p> <p>10 that you were referring to about payment</p> <p>11 as a probationary employee, is that</p> <p>12 right?</p> <p>13 A. Sounds right.</p> <p>14 - - - - -</p> <p>15 (Thereupon, Deposition</p> <p>16 Exhibit-27 was marked for</p> <p>17 purposes of identification.)</p> <p>18 - - - - -</p> <p>19 Q. Handing you what's been</p> <p>20 marked Deposition Exhibit 27, you've</p> <p>21 seen this document before, correct?</p> <p>22 A. Yeah, I'm familiar with it.</p> <p>23 Q. And this document is a</p> <p>24 letter dated January 11, 2008 that you</p> <p>25 produced and it is addressed to whom it</p>	<p>1 were laid off in January of 08?</p> <p>2 A. No.</p> <p>3 Q. Do you know who made the</p> <p>4 decision to lay you off at that time?</p> <p>5 A. No.</p> <p>6 Q. Do you who was involved in</p> <p>7 the decision to lay you off at that</p> <p>8 time?</p> <p>9 A. Agents of the company.</p> <p>10 Q. Do you know any individual</p> <p>11 who was involved in the decision to lay</p> <p>12 you off at that time?</p> <p>13 A. At that time I'm not sure.</p> <p>14 Q. Do you know what facts were</p> <p>15 taken into consideration when you were</p> <p>16 laid off or the decision was made to</p> <p>17 lay you off in January of 08?</p> <p>18 A. Say that again, please.</p> <p>19 Q. Do you know what facts were</p> <p>20 taken into consideration when the</p> <p>21 decision was made to lay you off in</p> <p>22 January of 2008?</p> <p>23 A. What do you mean facts?</p> <p>24 Q. Do you know what the company</p> <p>25 considered when it made the decision to</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 178	Page 180
<p>1 lay you off in January of 08?</p> <p>2 A. You have to ask them, I</p> <p>3 don't know.</p> <p>4 Q. And you were recalled</p> <p>5 sometime in March of 08, is that right?</p> <p>6 A. I don't have the papers in</p> <p>7 front of me.</p> <p>8 - - - - -</p> <p>9 (Thereupon, Deposition</p> <p>10 Exhibit-28 was marked for</p> <p>11 purposes of identification.)</p> <p>12 - - - - -</p> <p>13 Q. Showing you what's been</p> <p>14 marked Deposition Exhibit 28, this is a</p> <p>15 letter that you produced written by you</p> <p>16 on March 31st, 2008 to Teamsters Local</p> <p>17 377.</p> <p>18 A. Oh, the trustee Charlie</p> <p>19 Byrnes, okay.</p> <p>20 Q. Looking at the last -- let</p> <p>21 me ask this: You wrote this letter,</p> <p>22 correct?</p> <p>23 A. Yeah, I drafted it.</p> <p>24 Q. The information certainly you</p> <p>25 wanted to set forth in the document was</p>	<p>1 with Mr. Hoffa, yes, yes.</p> <p>2 Q. When you were recalled in</p> <p>3 March of 2008 you were recalled to your</p> <p>4 warehouse position, correct?</p> <p>5 A. Yes, that's my position,</p> <p>6 warehouse, yes.</p> <p>7 Q. Do you recall that at the</p> <p>8 time you were brought back in March of</p> <p>9 08 several employees were on vacation or</p> <p>10 leaving for vacation shortly after that?</p> <p>11 A. I don't recall right now.</p> <p>12 Q. It's possible, you just don't</p> <p>13 recall?</p> <p>14 A. I don't know. If you say</p> <p>15 someone is on vacation, so be it, it's</p> <p>16 okay.</p> <p>17 Q. And you maintained your</p> <p>18 health benefits during your recall --</p> <p>19 or, excuse me, your layoff period, is</p> <p>20 that right?</p> <p>21 A. They had me on a personal or</p> <p>22 a leave of absence, yeah, I don't know</p> <p>23 why they did that, but yeah.</p> <p>24 Q. You came back in March of 08</p> <p>25 and then you were subsequently laid off</p>
Page 179	Page 181
<p>1 true since you were writing to Teamsters</p> <p>2 Local 377, right?</p> <p>3 A. Sure. My signature isn't</p> <p>4 subscribed upon this, but yeah.</p> <p>5 Q. In the last paragraph of</p> <p>6 this letter you state, "As such,</p> <p>7 regarding said layoff or discharge, it's</p> <p>8 been one working day since being called</p> <p>9 back to work on March 31st, 2008." Did</p> <p>10 I read that correctly?</p> <p>11 A. Word for word.</p> <p>12 Q. Does that refresh your</p> <p>13 recollection that you were recalled to</p> <p>14 work in March of 2008?</p> <p>15 A. Sure.</p> <p>16 Q. Flipping, I think there's a</p> <p>17 second page to that exhibit, is there?</p> <p>18 A. Yeah.</p> <p>19 Q. That appears to be a letter</p> <p>20 from Charlie Byrnes to yourself dated</p> <p>21 April 1st, 2008. Is it your</p> <p>22 understanding this is a response from</p> <p>23 Mr. Byrnes, B Y R N E S, to you to your</p> <p>24 March 31st, 2008 letter?</p> <p>25 A. Yeah, because of my contact</p>	<p>1 in January of 09 again, correct?</p> <p>2 A. It sounds about right.</p> <p>3 - - - - -</p> <p>4 (Thereupon, Deposition</p> <p>5 Exhibit-29 was marked for</p> <p>6 purposes of identification.)</p> <p>7 - - - - -</p> <p>8 Q. Showing you what's been</p> <p>9 marked Deposition Exhibit 29, another</p> <p>10 letter that you produced, this one is</p> <p>11 dated January 9th, 2009 addressed to</p> <p>12 whom it may concern, refers to you, it</p> <p>13 says you'll be on temporary layoff</p> <p>14 effective January 12, 2009. Perhaps</p> <p>15 there's a period missing, I don't know.</p> <p>16 Then it says, "This will continue for an</p> <p>17 undetermined length of time." Did I</p> <p>18 read that correctly?</p> <p>19 A. Yeah, the grammar is</p> <p>20 fragile(sic) in it, you're right, yeah,</p> <p>21 yeah, word for word.</p> <p>22 Q. So you understood in the</p> <p>23 sentence, "This will continue for an</p> <p>24 undetermined length of time," referred</p> <p>25 to your layoff, correct?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 182	Page 184
<p>1 A. Say that again, please.</p> <p>2 Q. You understood in the</p> <p>3 sentence, "This will continue for an</p> <p>4 undetermined length of time," that the</p> <p>5 word this referred to your layoff,</p> <p>6 correct?</p> <p>7 A. Defining temporary layoff</p> <p>8 undetermined, yes.</p> <p>9 Q. My question is just simply</p> <p>10 from reading the sentence, "This will</p> <p>11 continue for an undetermined length of</p> <p>12 time," you understood "this" referred to</p> <p>13 your layoff, correct?</p> <p>14 A. Sure, the temporary layoff,</p> <p>15 yes.</p> <p>16 Q. Do you have personal</p> <p>17 knowledge of why you were laid off in</p> <p>18 January of 09?</p> <p>19 A. I don't know. You have to</p> <p>20 ask the company.</p> <p>21 Q. Did you ever ask the company</p> <p>22 why you were laid off in January of 09?</p> <p>23 A. No.</p> <p>24 Q. Do you who made the decision</p> <p>25 to lay you off in January of 09?</p>	<p>1 on layoff?</p> <p>2 A. Say that again, please.</p> <p>3 Q. Once again you stayed on</p> <p>4 company health benefits while you were</p> <p>5 on layoff, correct?</p> <p>6 A. They had me on a leave of</p> <p>7 absence, yes. I don't know why they</p> <p>8 did that. Yes.</p> <p>9 Q. Do you recall that sometime</p> <p>10 in April of 09 you had a conversation</p> <p>11 with Mr. Taraba about when you would be</p> <p>12 recalled and his response was not until</p> <p>13 June of 09 because that coincided with</p> <p>14 vacations?</p> <p>15 A. I don't recall.</p> <p>16 Q. You don't recall one way or</p> <p>17 the other, correct?</p> <p>18 A. When was it?</p> <p>19 Q. April of 09.</p> <p>20 A. I'm not familiar. If you</p> <p>21 say, so be it.</p> <p>22 Q. You were, in fact, recalled</p> <p>23 in June of 09, is that right?</p> <p>24 A. I don't have the paperwork</p> <p>25 in front of me. If you say so, so be</p>
Page 183	Page 185
<p>1 A. You have to ask the company,</p> <p>2 the company agent.</p> <p>3 Q. Do you know who was involved</p> <p>4 in the decision to lay you off in</p> <p>5 January of 09?</p> <p>6 A. You got signatures here,</p> <p>7 these company guys right there, the</p> <p>8 company, what's it say, Stimmel, Fisher,</p> <p>9 Bobal and 377.</p> <p>10 Q. Well, certainly Local 377 is</p> <p>11 not part of the company, correct?</p> <p>12 A. True.</p> <p>13 Q. And my question is, do you</p> <p>14 have any personal knowledge of who was</p> <p>15 involved in the decision to lay you off</p> <p>16 in January of 09?</p> <p>17 A. No.</p> <p>18 Q. So similarly you don't know</p> <p>19 what facts were considered by those</p> <p>20 individuals when they made the decision</p> <p>21 to lay you off in 09, correct?</p> <p>22 A. You have to ask them, I</p> <p>23 don't know.</p> <p>24 Q. Once again you stayed on</p> <p>25 company health benefits while you were</p>	<p>1 it.</p> <p>2 - - - - -</p> <p>3 (Thereupon, Deposition</p> <p>4 Exhibit-30 was marked for</p> <p>5 purposes of identification.)</p> <p>6 - - - - -</p> <p>7 Q. Showing you what's been</p> <p>8 marked Deposition Exhibit 30, a document</p> <p>9 that appears to be from you dated June</p> <p>10 3rd of 09 written to John Taraba. Does</p> <p>11 this document refresh your recollection</p> <p>12 that you returned to work June 8th of</p> <p>13 2009?</p> <p>14 A. It's not -- my signature</p> <p>15 isn't subscribed but it appears to be.</p> <p>16 Q. We haven't really seen any</p> <p>17 typed documents that you submitted where</p> <p>18 your signature was subscribed, correct?</p> <p>19 A. Yeah, I don't know why, but</p> <p>20 yes.</p> <p>21 Q. So this does refresh your</p> <p>22 recollection you were recalled June of</p> <p>23 09, correct?</p> <p>24 A. Yes. I didn't want any</p> <p>25 disruption and more problems, the grief,</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 186	Page 188
<p>1 just trying to be a good faith, good 2 person, yes, courtesy. 3 Q. And you were again recalled 4 to your warehouse position, is that 5 right? 6 A. Excuse me. Yes, that's 7 correct. 8 Q. Coming back in June of 09 9 you were then subsequently laid off 10 September 21st of 09, correct? 11 A. Yeah, that sounds right. 12 - - - - - 13 (Thereupon, Deposition 14 Exhibit-31 was marked for 15 purposes of identification.) 16 - - - - - 17 Q. Handing you what's been 18 marked Deposition Exhibit 31, it's a 19 document produced by you that contains 20 -- sorry, Mike -- the highlighted 21 portions and the red writing. This is 22 a document dated September 18th, 2009, 23 to whom it may concern. It indicates 24 you'll be placed on layoff effective 25 Monday, September 21, 2009. The next</p>	<p>1 lay you off in September of 2009? 2 A. Repeat the question. 3 Q. I'm sorry? 4 A. Repeat the question. 5 Q. Do you know what was taken 6 into account when making the decision 7 lay you off in September of 09? 8 A. What do you mean account? 9 Q. What facts were considered 10 when whoever made the decision to lay 11 you off in September of 09 made that 12 decision? 13 A. No. 14 Q. You stayed on company health 15 benefits during this layoff as well, 16 correct? 17 A. Say that again, please. 18 Q. You stayed on company health 19 benefits during this layoff as well, 20 correct? 21 A. Yeah, they had me on leave, 22 private leave or something. I don't 23 know why they did that, they keep doing 24 that. Personal leave or something. 25 Yes, health benefits, yes.</p>
Page 187	Page 189
<p>1 sentence, "This layoff will continue for 2 an undetermined length of time." Did 3 that I read that correctly? 4 A. Word for word. 5 Q. Do you have personal 6 knowledge of why you were laid off in 7 September of 09? 8 A. No. 9 Q. Did you ask? 10 A. No. 11 Q. Who made the decision -- or 12 strike the question, please. Do you 13 know who made the decision to lay you 14 off in September of 09? 15 A. A company agent. 16 Q. Do you know what individual 17 made the decision to lay you off? 18 A. I don't know, you have to 19 ask them. 20 Q. Do you know who was involved 21 in the decision to lay you off in 22 September of 09? 23 A. You have to ask the company. 24 Q. Do you know what was taken 25 into account when making the decision to</p>	<p>1 Q. After receiving a copy of 2 Deposition Exhibit 31 did you contact 3 Mr. Taraba to discuss your layoff? 4 A. No. 5 Q. Did you contact Mr. Stimmel 6 to discuss your layoff? 7 A. No. 8 Q. When you received a copy of 9 Deposition Exhibit 31 on or about 10 September 18, 2009 did you contact the 11 union to discuss your layoff? 12 A. Every month. 13 Q. I'm sorry? 14 A. Every month, yes. 15 Q. You contacted them every 16 month beginning September 18th, 2009 to 17 discuss your layoff? 18 A. Yes, I had pay my dues every 19 month. 20 Q. Okay. So, I'm sorry, the 21 contact you're referring to was to pay 22 your dues? 23 A. Yeah, and small talk, banter, 24 shop talk, et cetera, et cetera. 25 Q. Did you also ask when you</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 190	Page 192
<p>1 were going to be recalled when you 2 contacted the union? 3 A. During the trusteeship I was 4 worried and understand a gray area 5 because they removed two officials, 6 Colello and DePasquale or whatever his 7 name is, for wrongdoing, quote, unquote. 8 So the union was kind of in chaos, 9 infighting, disorganized, disruption, so 10 I kind of kept going down there at the 11 hall in Youngstown. 12 Q. I'm sorry, you were concerned 13 about your recall status because there 14 was chaos going on at the union and you 15 didn't want you to get lost in the 16 shuffle of that chaos? 17 A. I didn't want to make them 18 pissed but I did know and felt that I 19 have to keep paying my dues, especially 20 in this time. Plus the contract 21 negotiations was ongoing, there was no 22 contract, they got to ratify the 23 contract. They didn't ratify it until 24 March of 2000, what is it, 11, 2011 -- 25 or 2010, I'm sorry, I misspoke. So I</p>	<p>1 layoff? 2 A. No. 3 Q. Same question with regards to 4 Cindi Fisher, F I S H E R? 5 A. Say it again, please. 6 Q. Same question with regards to 7 Miss Fisher, did you contact Miss Fisher 8 on or about September 18th, 2009 to 9 discuss your layoff? 10 A. Nothing in payroll, no. 11 Q. And you say nothing in 12 payroll because you understand Miss 13 Fisher is in the company's payroll 14 department, correct? 15 A. Yeah, just past experience 16 with her in 2007, payroll, December 17 31st, December whatever it was, yeah. 18 Q. So other than the union 19 conversations you just mentioned did you 20 contact anyone about being recalled to 21 work after receiving the September 18, 22 2009 correspondence? 23 A. Just union people. 24 Q. So it's your position that 25 when you received the September 18th,</p>
Page 191	Page 193
<p>1 made an appearance but sometimes they 2 got angry at me so I kind of shied off 3 a little bit, just try to keep in good 4 contact with them. 5 Q. So once again you wanted to 6 make sure that your status, your recall 7 status, was not lost in the shuffle with 8 everything that was going on that you 9 just described with the union? 10 A. Say that again, please. 11 Q. Once again you wanted to 12 insure that your recall status was not 13 lost in the shuffle with everything that 14 you just recounted was going on with the 15 union? 16 A. I was making sure my 17 employment was okay. 18 Q. Did the union give you any 19 indication your employment was not okay 20 in response to your inquiries? 21 A. No. 22 Q. Did you contact -- on or 23 about September 18th, 2009 after 24 receiving Deposition Exhibit 31 did you 25 contact Mr. Bobal to discuss your</p>	<p>1 2009 correspondence that this was a 2 permanent layoff? 3 A. No. 4 Q. You filed a grievance on 5 August 30th -- 6 A. Yes. 7 Q. -- 2011? 8 A. That's the wage claim. 9 Q. That was 11823, right? 10 A. Yeah, it's 118, yeah, you're 11 correct, 23. She has nothing to do 12 about layoff, it's just a wage claim to 13 get paid wages, union benefits. Nothing 14 else. 15 - - - - - 16 (Thereupon, Deposition 17 Exhibit-32 was marked for 18 purposes of identification.) 19 - - - - - 20 Q. Handing you what's been 21 marked Deposition Exhibit 32, it's a 22 copy of the grievance we've been 23 discussing, 11823? 24 A. Yeah, I wrote it myself. 25 Q. In the nature of report</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 194	Page 196
<p>1 section you have a clause that states, 2 "As the company has assigned others to 3 work," do you see that? 4 A. Where, what are you looking 5 at? 6 Q. The section entitled nature 7 of report, that's where you described 8 your grievance? 9 A. Okay. 10 Q. There's a clause on the 11 third line -- 12 A. Okay, I see it. 13 Q. -- that starts, "As the 14 company has assigned others to work," do 15 you see that? 16 A. Yes. 17 Q. To whom are you referring 18 when you say others to work? 19 A. Any worker. 20 Q. Did you have personal 21 knowledge that somebody had been 22 assigned to work your job? 23 A. What do you mean personal 24 knowledge? 25 Q. Well, maybe I'm making an</p>	<p>1 orders? 2 Q. The amount of orders they 3 were receiving? 4 A. You mean volume? 5 Q. Yes. 6 A. I don't know. What date was 7 that to? 8 Q. Summer of 09. 9 A. Busy season, you should have 10 a lot of orders. 11 Q. When you say busy season are 12 you saying that summer of 09 was busy 13 or generally the summer is a busy 14 season? 15 A. I'm just politely saying the 16 summer is always busy. It's pop season, 17 quote, unquote. 18 Q. But you don't have any 19 personal knowledge of the orders the 20 company was actually receiving, correct? 21 A. No. 22 Q. Now, we talked about this 23 briefly, at least I think you mentioned 24 it before, that you attended a meeting 25 on September 14th, 2010 at ABC about</p>
Page 195	Page 197
<p>1 assumption and you can correct me if I 2 have this wrong, but I thought we talked 3 about this earlier in the deposition 4 that you filed this grievance because 5 you believed that you were laid off and 6 someone was performing your job? 7 A. Well, based on a discussion 8 with Joe Warner from OSHA on the 26th 9 of August, you know, 2010, I'm assuming 10 I had to be replaced and I'm assuming 11 that other workers are covering me if 12 they didn't hire anybody and if they 13 did, I mean, they had a lot of work so 14 I figured they got to bring somebody in. 15 So it's a good educated guess. 16 Q. Did you know or have 17 personal knowledge of the level of 18 orders that the company was receiving in 19 the summer of 09? 20 A. Say that -- 21 Q. Did you have any personal 22 knowledge of the level of orders for 23 product the company was receiving in the 24 summer of 09? 25 A. What do you mean level of</p>	<p>1 your grievance, correct? 2 A. Yes, about this wage claim 3 11823. 4 MS. MCARDLE: Off the record. 5 (Discussion off record.) 6 - - - - - 7 (Thereupon, Deposition 8 Exhibit-33 was marked for 9 purposes of identification.) 10 - - - - - 11 Q. Showing you what's been 12 marked Deposition Exhibit 33, this is a 13 document that you produced to us in 14 discovery with the highlighted portions 15 on there, appears to be a letter to 16 you, a copy to the Teamsters Local 377, 17 Bill Stimmel, John Taraba, and the 18 document is from Mike Bobal. It's dated 19 9-30-2010 and, as you said, it related 20 to grievance 11823? 21 A. Yes. 22 Q. You received a copy of this 23 document as you put highlighted marks on 24 it, correct? 25 A. Certified mail, I signed for</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 198	Page 200
<p>1 it.</p> <p>2 Q. So we talked a little bit</p> <p>3 about the meeting on September 14th</p> <p>4 earlier but I have a few more specific</p> <p>5 questions about that meeting.</p> <p>6 A. Sure.</p> <p>7 Q. What else -- to the best of</p> <p>8 your recollection, how long was that</p> <p>9 meeting on September 14, 2010?</p> <p>10 A. I can't recall, you have to</p> <p>11 ask the company. I'm sure they timed</p> <p>12 it because I'm sure they got paid for</p> <p>13 it.</p> <p>14 Q. What subjects were discussed</p> <p>15 at the September 14, 2010 meeting?</p> <p>16 A. Collecting bargaining</p> <p>17 subjects.</p> <p>18 Q. What specific subjects as</p> <p>19 they related to your employment with ABC</p> <p>20 were discussed at the September 14, 2010</p> <p>21 meeting?</p> <p>22 A. This is the wage claim issue</p> <p>23 regarding wages, getting paid, with</p> <p>24 other workers working.</p> <p>25 Q. And what other subjects other</p>	<p>1 really resolved at that point.</p> <p>2 Q. So you're saying --</p> <p>3 A. Union reps were pretty much</p> <p>4 backing my side and certified everything</p> <p>5 I'd said and says I'm going to get paid</p> <p>6 my wages and...</p> <p>7 Q. So you're saying Mr. Bobal's</p> <p>8 demeanor changed from the start of the</p> <p>9 meeting to the point when the company</p> <p>10 people left?</p> <p>11 A. Yeah, you could confer with</p> <p>12 your client, it was pretty drastic in</p> <p>13 change.</p> <p>14 Q. Mr. Potts, we're here to</p> <p>15 take your deposition --</p> <p>16 A. Absolutely.</p> <p>17 Q. -- so I can get the facts</p> <p>18 from you. I certainly can confer with my</p> <p>19 client but you filed the lawsuit against</p> <p>20 ABC so I'm entitled to some answers,</p> <p>21 okay?</p> <p>22 A. That's why I'm here.</p> <p>23 Q. Great. Thank you.</p> <p>24 MR. ROSSI: Don't argue with her.</p> <p>25 THE WITNESS: Oh, I'm sorry,</p>
Page 199	Page 201
<p>1 than other workers working were</p> <p>2 discussed during the September 14, 2010</p> <p>3 meeting?</p> <p>4 A. I believe I brought up the</p> <p>5 issue that they didn't call me for</p> <p>6 annual job bidding for the year, since</p> <p>7 the contract was ratified and looks like</p> <p>8 I got left out somewhere, I think.</p> <p>9 Q. Did the company respond?</p> <p>10 A. The result of that meeting,</p> <p>11 they basically walked out and left.</p> <p>12 Q. So you're saying the company</p> <p>13 -- you made a statement about not being</p> <p>14 called for annual job bidding and no one</p> <p>15 from the company responded to you?</p> <p>16 A. You know, there were so many</p> <p>17 subjects, I mean, I just have to just</p> <p>18 -- just jump into it and jump -- it was</p> <p>19 all over the place, so there was a lot</p> <p>20 of different subjects. Because Mr.</p> <p>21 Bobal pretty much turned red in the face</p> <p>22 and his demeanor changed and his conduct</p> <p>23 changed and was upset and angry and they</p> <p>24 decided to end the meeting, just walk</p> <p>25 out, it was incomplete. Nothing was</p>	<p>1 that's --</p> <p>2 MR. ROSSI: Just answer her</p> <p>3 question if she asks one.</p> <p>4 A. I apologize.</p> <p>5 Q. No, it's no offense.</p> <p>6 A. I don't mean to be out of</p> <p>7 line.</p> <p>8 Q. So my question again is, are</p> <p>9 you saying Mr. Bobal's demeanor changed</p> <p>10 from the start of the meeting until the</p> <p>11 point in time when the company people</p> <p>12 left?</p> <p>13 A. Yeah. The other company</p> <p>14 reps was fine, demeanor is good, he was</p> <p>15 the only one.</p> <p>16 Q. And then you said there were</p> <p>17 so many subjects discussed and that's</p> <p>18 really what I'm trying to get a handle</p> <p>19 on.</p> <p>20 A. Yeah.</p> <p>21 Q. You said that there was the</p> <p>22 wage claim, that you were not called for</p> <p>23 annual job bidding and then what other</p> <p>24 subjects were discussed?</p> <p>25 A. Yeah, that's why we were</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 202	Page 204
<p>1 there. This is a wage claim, annual 2 job bidding, workers from other 3 departments working. We got -- I got 4 the seniority list for the first time, 5 it's dated 9-14-2010. That's when I 6 seen that there are seven or eight 7 people hired under me. That's when we 8 seen that there's no utility 9 classification on the seniority sheet. 10 A lot of information. Seen that another 11 guy was hired the same day I was laid 12 off. All kind of stuff. 13 Q. And I'm looking for the 14 subjects that were discussed at that 15 meeting. So I have wage claim, you 16 were not called for annual job bidding, 17 that other workers were assigned to your 18 work and you received a seniority list. 19 What other subjects? 20 A. The basis of that claim is a 21 wage claim proving that they had other 22 workers in there and doing my job. And 23 I thought I accomplished it and 24 unfortunately the meeting ended, they 25 run out, that was it. Then I get this</p>	<p>1 meeting that the company had someone 2 else working your position? 3 A. Working my jobs, yes. 4 Q. Who was that? 5 A. Many people. 6 Q. You said that someone 7 replaced you so are you not saying that 8 now, there's not somebody who took over 9 your position in the warehouse? 10 A. Let me clarify. I received 11 the seniority list for the first time 12 and take notice or took notice of new 13 employees. 14 Q. New warehouse employees? 15 A. New warehouse, new 16 merchandisers, new drivers, there's a 17 lot of new employees on that sheet. I 18 have taken notice and without question 19 somebody is working in the warehouse. 20 - - - - - 21 (Thereupon, Deposition 22 Exhibit-34 was marked for 23 purposes of identification.) 24 - - - - - 25 Q. Handing you what's been</p>
Page 203	Page 205
<p>1 letter in the mail. 2 Q. You thought you accomplished 3 proving that the company had someone 4 else in your position? 5 A. I thought for my grievance 6 with proving that all those things, that 7 I thought I made a good face, you know, 8 not good -- good faith argument in 9 proving my points to prevail in the 10 grievance on 11823 so I can get paid 11 wages. 12 Q. And, again, you're saying 13 that you feel you proved that the 14 company had someone else in your 15 position? 16 A. Well, I thought that... 17 Q. This is a yes or no 18 question. 19 A. Repeat the question. 20 Q. Are you saying that you 21 proved the company had someone else 22 working your position? 23 A. Repeat that. 24 Q. Are you saying that you feel 25 you proved in that September 14, 2010</p>	<p>1 marked Deposition Exhibit 34, it's a 2 document that you produced highlighting 3 and red pen on the document with the 4 time you produced it. 5 A. Yes. 6 Q. Looking, this appears to be 7 a letter dated September 14, 2010? 8 A. Yes. 9 Q. To the local union? 10 A. Same day pretyped, yes. 11 Q. I'm sorry, you typed this 12 prior to arriving at the meeting? 13 A. Yeah. 14 Q. Didn't you just testify that 15 you received the seniority list for 16 first time at that meeting? 17 A. That's right. I didn't 18 attach it to this. 19 Q. Then I guess I'm unaware how 20 you knew that your name was not last in 21 the plant-wide seniority list at that 22 time? 23 A. I typed this letter up and 24 brought it that day, September 14, 2010. 25 That was my argument at the time and</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 206	Page 208
<p>1 that was my position and my position was 2 stating permanent layoff. 3 Q. Why did you believe that the 4 subject of permanent layoff was going to 5 be discussed at the September 14, 2010 6 meeting? 7 A. Because my seniority time is 8 good for one year after date of 9 involuntary layoff, which is 10 9-21st-2010. So cutting whatever 11 manipulations and things that they're 12 doing right to the point, laid off a 13 long time, permanent layoff, that's what 14 I jumped into at that time, is my 15 understanding of the information I got. 16 Q. So what you're saying is you 17 were speaking of a permanent layoff 18 because the one year period under the 19 contract was about to expire on 20 September 21st, 2010 and, to use your 21 words earlier in the deposition, that 22 you'd be done for all purposes at that 23 point? 24 A. My position was to show, to 25 prevail on that grievance, to show a</p>	<p>1 think. That's my response, that's how I 2 think and knowing that seven days of 3 seniority remains, my seniority recall 4 rights, everything else, seven days away 5 to help them get to a decision real 6 fast, pay me, discuss layoff issues and 7 everything else, union contract, the 8 trusteeship, the removal of the union 9 people, new employees, other employees 10 doing work out of classification, all 11 that, because that's how I think. 12 That's why I did that. I pretyped this 13 letter ahead of time and came in and 14 passed it out to every one of them at 15 the table. That was my position 16 statement. 17 Q. So let's look at the 18 seniority list that is attached to 19 Deposition Exhibit 34 -- 20 A. Yes. 21 Q. -- but you're saying that 22 was not part of the September 14 letter 23 that you represented? 24 A. That's what we found out 25 that day. I don't think they give me</p>
Page 207	Page 209
<p>1 prevailing case and I thought I did for 2 my grievance. 3 Q. And my question is different. 4 You referenced permanent layoff, I asked 5 you why you even thought permanently 6 layoff would a subject to be discussed 7 at the September 14, 2010 meeting and 8 you responded because your one year 9 period was almost up and you made some 10 characterizations about the company -- 11 A. Sure. 12 Q. -- and that's why you said 13 you raised it. So I'm clarifying in 14 saying, so you raised the subject of 15 permanent layoff because you believed 16 under the terms of the contract one year 17 of layoff was about to expire and as of 18 September 21st, 2010 you would be, using 19 your words, done for all purposes? 20 A. Rephrase that. 21 Q. I really can't. 22 MS. MCARDLE: I really can't. 23 Can you read that back, please? 24 (Record read.) 25 A. Okay. That's the way I</p>	<p>1 the list until after, the union mailed 2 it to me. 3 - - - - - 4 (Thereupon, Deposition 5 Exhibit-35 was marked for 6 purposes of identification.) 7 - - - - - 8 Q. Let's do this then, please 9 take the list off of Exhibit 34. 10 A. Yeah. 11 Q. And put Exhibit 35 at the 12 bottom of the first page of the list 13 and we'll introduce these separately. 14 Showing you what's been marked 15 Deposition Exhibit 35, this is a copy of 16 the layoff -- excuse me, the seniority 17 list that you received at the September 18 14, 2010 meeting, correct? 19 A. Say that again. 20 Q. Showing you what's been 21 marked Deposition Exhibit 35, this is a 22 copy of the seniority list that you said 23 you received on September 14, 2010, 24 correct? 25 A. They didn't give it to me.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 210	Page 212
<p>1 I was able to look at it that day, 2 correct. 3 Q. If you need to look at this 4 list to refresh your recollection, 5 please do so. 6 A. Sure. 7 Q. But please identify all the 8 employees that you claim were performing 9 your job. 10 A. I can only assume, I wasn't 11 there. 12 Q. So you have no personal 13 knowledge of anyone on this list who was 14 performing your job while you were on 15 layoff, correct? 16 A. It could be any one of them. 17 Q. Now, you referenced also 18 earlier in your testimony that the 19 company hired other warehouse 20 individuals while you were on layoff. 21 Would you please turn to the second page 22 of the exhibit, which is the seniority 23 by department list, you are the least 24 senior employee listed under warehouse, 25 correct?</p>	<p>1 2010? 2 A. Yeah, I looked right at it. 3 Q. And who has less seniority 4 who holds the position as warehouse 5 loader? 6 A. I always been number five 7 and I count one, two, three, four, five. 8 There's Tony Nicastro who has been 9 utility, gets less pay than me, starts 10 earlier than me and on this date, 11 9-14-2010, it's a warehouse, new 12 contract ratified in March 2010, 13 supposed to have seniority updates. I 14 just don't know why he's in the 15 warehouse and no utility classification. 16 And if he did get in the warehouse his 17 classification department seniority is 18 incorrect. 19 Q. On what basis do you believe 20 his seniority is incorrect? 21 A. Well, when I was hired in 22 July of 2007 he was utility. 23 Q. And my question is different. 24 You said if he was in the warehouse his 25 seniority is incorrect. On what basis</p>
Page 211	Page 213
<p>1 A. After studying that yes, 2 correct. Interesting. 3 Q. And if you flip to the first 4 page of Deposition Exhibit 35, this is 5 the plant-wide seniority list and 6 numbers 21 through 30 are all identified 7 as merchandisers, correct? 8 A. Yes. 9 Q. And looking at the plant-wide 10 seniority list you are the least senior 11 warehouse person, number 19 on this 12 list, correct? 13 A. I would have to disagree. 14 May I separate this so I can look at 15 them side-by-side? 16 Q. My question is really looking 17 at the plant-wide seniority list, which 18 is the first page of Deposition Exhibit 19 35, you are the least senior warehouse 20 employee listed on this list, correct? 21 A. On this document, yes. 22 Q. Do you believe that there's 23 something on the second page that would 24 show that you were not the least senior 25 warehouse employee as of September 14,</p>	<p>1 do you believe his seniority is 2 incorrect because he's in the warehouse? 3 A. Well, they would have to 4 post a job for him to take a warehouse 5 job. The company would have to post an 6 opening or if they -- what's the word 7 I'm looking for -- relieve a position or 8 get rid of a position they still have 9 to post for other people. Even the 10 annual job bidding, everybody has to get 11 reassigned in seniority classifications. 12 For example, you can look at the 13 department seniority under Kevin 14 Sypherd, department seniority date 15 6-21st-2010, date of hire 7-21st-2003. 16 I mean, his status is incorrect. 17 Q. Do you know why Mr. 18 Sypherd's status shows 6-21-210 for 19 department seniority? 20 A. Looking at this, my educated 21 guess is -- 22 Q. I don't want your guess, I 23 want knowledge. Do you know why Mr. 24 Sypherd's department seniority is listed 25 as 6-21-2010?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 214	Page 216
<p>1 A. What department, doesn't say 2 what department he's in there. 3 Q. My question again is, do you 4 know why Mr. Sypherd's department 5 seniority is listed as 6-21-2010? 6 A. He got hired as a driver. 7 MS. MCARDLE: Mike? 8 MR. ROSSI: Yes? 9 MS. MCARDLE: Would you please 10 have your witness answer the questions? 11 Q. My question is really, really 12 simple, Mr. Potts. 13 A. Okay. 14 Q. Do you know why Mr. 15 Sypherd's department seniority is listed 16 as 6-21-2010? 17 A. Do I know why it's listed? 18 Q. Yes, as that date, do you 19 know why? 20 A. Because he's a driver, 21 obviously he's a driver. 22 Q. Do you have personal 23 knowledge about why Mr. Sypherd's 24 seniority date is listed as 6-21-2010? 25 A. Yeah.</p>	<p>1 simple. 2 A. Okay. 3 Q. You testified that if there 4 was an open position the company would 5 have to post that position? 6 A. Yeah. 7 Q. And I'm asking you where you 8 have come up with that information that 9 the company is required to post a 10 position that is open? 11 A. The CBA. 12 Q. So you would defer to the 13 terms of collective bargaining agreement 14 for whatever the company is or is not 15 supposed to do with regards to posting 16 an open position, correct? 17 A. Say that again, please. 18 Q. You would defer to the terms 19 of the collective bargaining agreement 20 as to what the company is or is not 21 supposed to do with regards to posting a 22 position, correct? 23 A. You can say that. And 24 annual job bidding. 25 Q. Looking at Deposition Exhibit</p>
Page 215	Page 217
<p>1 Q. What's that knowledge? 2 A. I seen him. 3 Q. You seen him what? 4 A. Out in public. I had a 5 conversation with him, engaged him in 6 dialogue. 7 Q. And he told you why his 8 seniority date is 6-21-2010? 9 A. He told me he got hired as a 10 driver. I said congratulations. Same 11 at the gas station. 12 Q. Have you ever seen Mr. 13 Sypherd's personnel file? 14 A. No. 15 Q. And on what basis are you 16 making your statements that the company 17 would post positions that became 18 available, is that because of something 19 in the collective bargaining agreement? 20 A. Well, I don't see utility 21 looking at this seniority. 22 Q. That's not my question, Mr. 23 Potts. 24 A. I'm sorry. 25 Q. My question again is very</p>	<p>1 33, you've highlighted a portion of the 2 first page of the document, it's within 3 a paragraph that states -- I'm sorry, do 4 you have the document in front of the 5 you? 6 A. I have it now, yes. 7 Q. It's in a paragraph that 8 states, "The company acknowledges that 9 with nearly a year now passing the 10 situation may result in a loss of 11 seniority. To avoid this possibility 12 (and in consideration of the fact it has 13 been over a year) the company is willing 14 to now consider this a 'permanent 15 layoff' effective October 15, 2010." 16 Did I read that correctly? 17 A. Word for word. 18 Q. Did you ask ABC what it 19 meant by that it is willing to now 20 consider this a permanent layoff 21 effective October 15, 2010? 22 A. Say that again, please. 23 Q. Did you ask the company, 24 after you received and read this letter, 25 what it meant by the statement it is</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 218	Page 220
<p>1 willing to now consider this a permanent 2 layoff effective October 15, 2010? 3 A. I only sent a letter for 4 seniority status and Mr. Bobal wouldn't 5 respond to me, he said don't talk to 6 him, so no. 7 Q. He said go to your union, 8 correct? 9 A. That was it, yes. 10 Q. So, again, you did not ask 11 the company what it meant by the 12 statement it is now willing to consider 13 this a permanent layoff effective 14 October 15, 2010, correct? 15 A. Say that again. 16 Q. You did not ask the company 17 what it meant by the statement it is 18 now willing to consider this a permanent 19 layoff effective October 15, 2010? 20 A. Yeah, the attempt was 21 referred to the union. 22 Q. You didn't ask the company, 23 correct? 24 A. In writing, yeah. 25 Q. You just told me you sent a</p>	<p>1 already lost, I don't have any seniority 2 rights. 3 Q. Do you know whether -- I'm 4 sorry. Go ahead. 5 A. 9-21st-2010 I have no 6 seniority rights. 7 Q. Correct, as under the terms 8 of the contract as of 9-21-2010 you were 9 going to lose your seniority, correct? 10 A. I already lost them because 11 on this date, they determined on that 12 date that the layoff was temporary. 13 Q. Mr. Potts, I really would 14 ask you, if you listen then we'll get 15 through this a lot faster. 16 A. I'm sorry. 17 Q. I said as of September 21st, 18 2010 you were losing your seniority 19 rights, correct? 20 A. They're gone, correct. 21 Q. Do you know whether ABC 22 eliminated a warehouse position around 23 that time? 24 A. Had to be me. 25 Q. Not my question. Do you</p>
Page 219	Page 221
<p>1 letter to the union? 2 A. I didn't say that. I said I 3 sent a letter to Mr. Bobal asking him 4 what my seniority status was, what my 5 rank is on the list. 6 Q. And in that letter you asked 7 him what did you mean by this statement 8 the company is now willing to consider 9 this a permanent layoff effective 10 October 15, 2010? 11 A. That's my way of speaking 12 and communicating, that's why I even -- 13 with the grievance, I said permanent. 14 That's the way I think. 15 Q. So you didn't ask him that 16 question? 17 A. I thought I was. 18 Q. Those words did not appear 19 in your letter, correct? 20 A. What words? 21 Q. What does the company mean 22 by the fact it's now willing to consider 23 this a permanent layoff effective 24 October 15, 2010. 25 A. No, because seniority is</p>	<p>1 know whether ABC eliminated a warehouse 2 position, not an individual but a 3 position at the company around that 4 time? 5 A. I don't know. 6 Q. Do you know whether ABC 7 eliminated a warehouse position at any 8 time between September of 09 and 9 September 2010? 10 A. Say that again. 11 Q. Do you know whether ABC 12 eliminated a warehouse position at any 13 time between September of 09 and 14 September 2010? 15 A. No, not aware, nothing 16 posted. 17 Q. So with this offer of 18 converting your layoff to a permanent 19 layoff effective October 15, 2010, in 20 essence this was reviving your 21 seniority, correct? 22 A. No. 23 Q. Well, what did you understand 24 the next sentence to mean which says, 25 "This will allow the grievant the</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 222	Page 224
<p>1 opportunity to exercise his contractual</p> <p>2 rights to bump by seniority and</p> <p>3 classifications until the least senior</p> <p>4 employee is displaced"?</p> <p>5 A. I don't have any contractual</p> <p>6 rights to bump on seniority and</p> <p>7 classifications.</p> <p>8 Q. So the company was actually</p> <p>9 extending you that right, correct?</p> <p>10 A. No. They were -- if you</p> <p>11 read, they're actually making me like a</p> <p>12 new employee, a new hire to make an</p> <p>13 application for a position in</p> <p>14 merchandising, in which at that meeting,</p> <p>15 9-14-2010, Mr. Bobal himself says I'm</p> <p>16 not qualified.</p> <p>17 Q. So with the company stating</p> <p>18 in this correspondence this will allow</p> <p>19 the grievant the opportunity to exercise</p> <p>20 his contractual right to "bump by</p> <p>21 seniority and classifications until the</p> <p>22 least senior employee is displaced," you</p> <p>23 did not understand that to mean that you</p> <p>24 could bump a lesser senior employee?</p> <p>25 A. I can't.</p>	<p>1 A. I sent him the letter to ask</p> <p>2 where my rank is in the --</p> <p>3 Q. Did you ever ask Mr. Bobal</p> <p>4 how could I possibly bump a less senior</p> <p>5 employee if I have no seniority?</p> <p>6 A. I wish I got the</p> <p>7 opportunity, no.</p> <p>8 Q. Looking at Deposition Exhibit</p> <p>9 35, first page, the individuals on the</p> <p>10 first page numbered 21 through 30, you</p> <p>11 would agree with me, have a hire date</p> <p>12 after your hire date, correct?</p> <p>13 A. Say that again.</p> <p>14 Q. The individuals on page 1 of</p> <p>15 Deposition Exhibit 35 are listed as 21</p> <p>16 through 30, you would agree with me,</p> <p>17 have a hire date after your hire date,</p> <p>18 correct?</p> <p>19 A. Yeah, 20 through 30, yes.</p> <p>20 Q. Do you have a CDL driver's</p> <p>21 license?</p> <p>22 A. No.</p> <p>23 Q. You filed another grievance</p> <p>24 on September 21st, 2010, correct?</p> <p>25 A. Correct. 11824, grievance</p>
Page 223	Page 225
<p>1 Q. I'm not asking what you</p> <p>2 could or couldn't do, I'm asking you</p> <p>3 what you understood the company was</p> <p>4 offering you?</p> <p>5 A. There is no offer. I don't</p> <p>6 -- obviously, there's a lot of confusion</p> <p>7 there.</p> <p>8 Q. There apparently is because</p> <p>9 you have testified as of September 21st,</p> <p>10 2010 you had lost your seniority,</p> <p>11 correct?</p> <p>12 A. Yeah.</p> <p>13 Q. However, the company is</p> <p>14 willing to consider this a permanent</p> <p>15 layoff effective October 15, 2010 to</p> <p>16 allow you to exercise contractual rights</p> <p>17 to bump by seniority?</p> <p>18 A. Yeah.</p> <p>19 Q. Did you ask Mike what are</p> <p>20 you talking about?</p> <p>21 A. No, because it was withdrew,</p> <p>22 this agreement was withdrawn.</p> <p>23 Q. Did you ask Mike at any time</p> <p>24 how could I possibly bump a less senior</p> <p>25 employee if I don't have seniority?</p>	<p>1 number.</p> <p>2 Q. I'm sorry, returning to</p> <p>3 Deposition Exhibit 33 for a moment.</p> <p>4 A. Yes.</p> <p>5 Q. So as you sit here today</p> <p>6 it's your testimony that at no time did</p> <p>7 you understand that the company was</p> <p>8 making an offer to you to permit you to</p> <p>9 exercise seniority rights past September</p> <p>10 21st, 2010?</p> <p>11 A. Correct. And that grievance</p> <p>12 was withdrawn October of 2010 as well.</p> <p>13 MR. ROSSI: Wait for a question.</p> <p>14 THE WITNESS: I'm sorry.</p> <p>15 - - - - -</p> <p>16 (Thereupon, Deposition</p> <p>17 Exhibit-36 was marked for</p> <p>18 purposes of identification.)</p> <p>19 - - - - -</p> <p>20 Q. Showing you what's been</p> <p>21 marked as Deposition Exhibit 36, this is</p> <p>22 correspondence from you to Teamsters</p> <p>23 Local 377 dated October 2nd, 2010, and</p> <p>24 we have your signature --</p> <p>25 A. Yeah --</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 226	Page 228
<p>1 Q. -- on this one?</p> <p>2 A. -- subscribed upon it, yeah.</p> <p>3 Q. Did you write this</p> <p>4 correspondence?</p> <p>5 A. Yeah.</p> <p>6 Q. Is everything contained in</p> <p>7 this correspondence true and accurate?</p> <p>8 A. Yeah. First time I told</p> <p>9 them to withdraw it so we can go to the</p> <p>10 layoff issues in 11824, absolutely.</p> <p>11 Q. You then filed yet another</p> <p>12 grievance on October 13th, 2010,</p> <p>13 correct?</p> <p>14 A. The union filed it on my</p> <p>15 behalf, 49 something, 4982 or 4959.</p> <p>16 That's it.</p> <p>17 Q. And -- 4956?</p> <p>18 A. 4956, I was close.</p> <p>19 Q. And you authorized the union</p> <p>20 to file the grievance on your behalf?</p> <p>21 A. Yeah, they made me sign it</p> <p>22 right there.</p> <p>23 Q. Well, did you protest signing</p> <p>24 the grievance, you didn't want to do it?</p> <p>25 A. They -- Justin drafted that.</p>	<p>1 that, yeah, I agree with it, I just</p> <p>2 wish they would have had more.</p> <p>3 - - - - -</p> <p>4 (Thereupon, Deposition</p> <p>5 Exhibit-38 was marked for</p> <p>6 purposes of identification.)</p> <p>7 - - - - -</p> <p>8 Q. Showing you what's been</p> <p>9 marked as Deposition Exhibit 38, it's a</p> <p>10 copy of correspondence that you sent to</p> <p>11 Mr. Mike Bobal on October 15th, 2010,</p> <p>12 subject line re: Permanent layoff, is</p> <p>13 that your signature?</p> <p>14 A. Yeah, yeah, subscribed</p> <p>15 myself.</p> <p>16 Q. You say, "Dear Michael, as</p> <p>17 you know, I have been provided with</p> <p>18 pertinent information regarding a notice</p> <p>19 of permanent layoff effective October</p> <p>20 15, 2010," correct?</p> <p>21 A. Correct.</p> <p>22 Q. And the first time you're</p> <p>23 contacting Mr. Bobal and writing about</p> <p>24 the notice you received about permanent</p> <p>25 layoff effective October 15, 2010 is in</p>
Page 227	Page 229
<p>1 Q. Did you protest signing the</p> <p>2 agreement?</p> <p>3 MR. ROSSI: Answer the question,</p> <p>4 Robert.</p> <p>5 A. No, no.</p> <p>6 - - - - -</p> <p>7 (Thereupon, Deposition</p> <p>8 Exhibit-37 was marked for</p> <p>9 purposes of identification.)</p> <p>10 - - - - -</p> <p>11 Q. This is Deposition Exhibit</p> <p>12 37, is this a copy of that grievance?</p> <p>13 A. Yes.</p> <p>14 Q. And that's your signature on</p> <p>15 the --</p> <p>16 A. Yes.</p> <p>17 Q. -- bottom left-hand corner?</p> <p>18 A. Absolutely.</p> <p>19 Q. Did you disagree with the</p> <p>20 contents of the grievance?</p> <p>21 A. It didn't raise the issue</p> <p>22 about annual bidding, I wish it would of</p> <p>23 because it was up and that meeting got</p> <p>24 cut short on 9-14-2010, but using</p> <p>25 workers out of classification and all</p>	<p>1 fact on October 15, 2010, correct?</p> <p>2 A. There you go, correct.</p> <p>3 Q. Then it goes on to say what</p> <p>4 you said earlier that you're asking</p> <p>5 about your status on the plant-wide</p> <p>6 seniority list, correct?</p> <p>7 A. Absolutely.</p> <p>8 Q. You would agree with me also</p> <p>9 that in this October 15, 2010</p> <p>10 correspondence to Mr. Bobal, Deposition</p> <p>11 Exhibit 38, you nowhere mention the</p> <p>12 merchandising position, correct?</p> <p>13 A. Correct. Mr. Bobal himself</p> <p>14 said I wasn't qualified 9-14-2010.</p> <p>15 Q. When did Mr. Bobal -- strike</p> <p>16 the question, please. What did Mr.</p> <p>17 Bobal say in the 9-14-2010 meeting about</p> <p>18 your qualifications for the</p> <p>19 merchandising position?</p> <p>20 A. That was it, he said I</p> <p>21 wasn't qualified.</p> <p>22 Q. Did you ask him what he</p> <p>23 meant by that?</p> <p>24 A. No, the union guy was</p> <p>25 arguing, he told him make me a</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 230	Page 232
<p>1 merchandiser and he yelled he's not 2 qualified. 3 Q. So you would agree with me 4 that Deposition Exhibit 33 is dated 5 September 30th, 2010 which is after 6 September 14, 2010, correct? 7 A. Say that again, please. 8 Q. Deposition Exhibit 33, you 9 would agree with me, is dated September 10 30th, 2010 which is after September 14, 11 2010? 12 A. Yeah. 13 Q. Did you ask Mr. Bobal, hey, 14 you told me I wasn't qualified on 15 September 14th but now you're telling me 16 I can have a merchandising position in 17 your 9-30 correspondence? 18 A. I didn't ask because I 19 withdrew the grievance, the wage claim 20 was withdrawn and -- 21 Q. I'm not talking about the 22 grievance. 23 A. Oh, okay. I'm sorry. 24 Q. This is separate. 25 A. Sure.</p>	<p>1 A. That was my only watch at 2 the time, looking for my seniority 3 rights, until 9-21st-2010. I knew I 4 didn't have to worry about anything 5 inside seniority. Whatever they done, I 6 know I got recourse, grievance 7 procedure, company counsel in Texas, I 8 got everything to address that inside 9 that date. I have protection of the 10 CBA. Outside of that, I don't have 11 anything. 12 Q. And in response to Deposition 13 Exhibit 38 that you sent to Mr. Bobal 14 he asked you to contact the union 15 regarding that matter? 16 A. Yes, he said don't call him, 17 write him, et cetera, et cetera. 18 19 (Thereupon, Deposition 20 Exhibit-39 was marked for 21 purposes of identification.) 22 23 Q. Showing you what's been 24 marked Deposition Exhibit 39, it's a 25 copy of a letter to the union dated</p>
Page 231	Page 233
<p>1 Q. Did you ask Mr. Bobal, hey, 2 on September 14th you said I wasn't 3 qualified for a merchandiser position, 4 why are you offering me one on 9-30? 5 A. In Exhibit -- I can't read 6 this. 7 Q. 38? 8 A. 38, that's my way of asking 9 him. 10 Q. But you didn't ask that 11 question, correct, you're asking about 12 your placement on the plant-wide 13 seniority list? 14 A. I need to know before I 15 expand upon my inquiry. I can't inquire 16 if I don't know. And on 9-30 nobody 17 knew the layoff was temporary either 18 until that date. 19 Q. When is the first time you 20 believed that -- strike the question, 21 please. When you say no one knew it 22 was temporary as of that date, you're 23 referring back to your earlier testimony 24 that because your one year period was 25 about to expire on 9-21?</p>	<p>1 October 18th, 2010 from you with your 2 signature, correct? 3 A. Yes. 4 Q. You would agree with me that 5 in this correspondence to the union, no 6 mention of the merchandising position, 7 correct? 8 A. Correct. The grievance was 9 already withdrawn. 10 Q. I don't understand why you 11 keep saying the grievance is already 12 withdrawn when this is a separate 13 matter. 14 A. I'm sorry, I won't speak of 15 it no more. I'm new to this. I 16 appreciate your latitude. Thank you. 17 18 (Thereupon, Deposition 19 Exhibit-40 was marked for 20 purposes of identification.) 21 22 Q. Handing you what's been 23 marked Deposition Exhibit 40, 24 correspondence from Mr. Bobal dated 25 November 10th, 2010 to you at your</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 234	Page 236
<p>1 Jeanette Drive address.</p> <p>2 A. Okay.</p> <p>3 Q. Did you receive this</p> <p>4 correspondence?</p> <p>5 A. No.</p> <p>6 Q. That's because you didn't</p> <p>7 sign for the certified mailing, correct?</p> <p>8 A. I didn't receive it, I</p> <p>9 didn't sign for any mailing on this</p> <p>10 date.</p> <p>11 Q. Well, there were several</p> <p>12 attempts made to have you sign for this</p> <p>13 correspondence and you refused to sign</p> <p>14 for it, correct?</p> <p>15 A. No, I didn't know about it.</p> <p>16 I was more than happy to sign for it.</p> <p>17 Q. So you're testifying under</p> <p>18 oath today that this is the first time</p> <p>19 you've ever seen this document?</p> <p>20 A. In the lawyer's office he</p> <p>21 showed it to me.</p> <p>22 Q. Were you aware of a meeting</p> <p>23 that was scheduled for October 21st with</p> <p>24 the company and the union and yourself?</p> <p>25 A. No.</p>	<p>1 Q. Yes. I'm looking at</p> <p>2 Deposition Exhibit 33. After the</p> <p>3 paragraph we've already read on page 1</p> <p>4 about bumping by seniority it goes on to</p> <p>5 say, "Should the grievant wish to pursue</p> <p>6 this course of action he needs to</p> <p>7 contact the company in writing</p> <p>8 expressing the desire within the 15</p> <p>9 working day period that this grievance</p> <p>10 answer is up for review." Do you see</p> <p>11 that?</p> <p>12 A. I see that.</p> <p>13 Q. And you did, in fact,</p> <p>14 contact the company on October 15, 2010</p> <p>15 and you didn't make any mention of the</p> <p>16 merchandising position, correct?</p> <p>17 A. No, because I can't bump, I</p> <p>18 want to know where my plant rank is and</p> <p>19 I wanted to bring up annual job bidding.</p> <p>20 I never got an annual job bidding from</p> <p>21 the beginning of that year in the new</p> <p>22 contract, the CBA.</p> <p>23 Q. So despite the fact the</p> <p>24 company was extending you the</p> <p>25 opportunity to bump you continued to</p>
Page 235	Page 237
<p>1 Q. You were never aware of a</p> <p>2 meeting that was scheduled for October</p> <p>3 21st?</p> <p>4 A. I wish I was.</p> <p>5 Q. So your union didn't let you</p> <p>6 know that?</p> <p>7 A. I don't believe so, otherwise</p> <p>8 I'd have been there.</p> <p>9 Q. According to this</p> <p>10 correspondence Mr. Bobal is indicating</p> <p>11 that the grievance answer on grievance</p> <p>12 11823 sent to you on September 30, 2010</p> <p>13 gave you a 15 day review period to</p> <p>14 answer us if you wish the available</p> <p>15 merchandising job, do you see that?</p> <p>16 A. I see it now.</p> <p>17 Q. Well, it was also set forth</p> <p>18 in September 30th, 2010 correspondence</p> <p>19 to you as well, correct, which you did</p> <p>20 receive?</p> <p>21 A. No, not like that, after</p> <p>22 review. This letter here says there's</p> <p>23 an available merchandising position.</p> <p>24 Q. Which is this letter?</p> <p>25 A. Your Exhibit 40.</p>	<p>1 believe that you couldn't do so?</p> <p>2 A. That's not an extension. I</p> <p>3 can't. Bobal already said I'm not</p> <p>4 qualified, 9-14. In regard to this</p> <p>5 letter, Exhibit 40, if I would have got</p> <p>6 it I would have been more than happy to</p> <p>7 sign up and fill the application out for</p> <p>8 that position because I have no</p> <p>9 seniority and no rights.</p> <p>10 Q. I just want to make sure I</p> <p>11 understand then.</p> <p>12 A. Sure.</p> <p>13 Q. Looking at Deposition Exhibit</p> <p>14 33 --</p> <p>15 A. Yeah.</p> <p>16 Q. -- and you can read the</p> <p>17 paragraph on the first page that begins,</p> <p>18 "The company acknowledges --"</p> <p>19 A. Yeah.</p> <p>20 Q. "-- with nearly a year</p> <p>21 passing now."</p> <p>22 A. I lost seniority.</p> <p>23 Q. Which concludes with, "this</p> <p>24 would most logically be a merchandising</p> <p>25 position," you did not understand that</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 238	Page 240
<p>1 the company was extending you the right</p> <p>2 past September 21st, 2010 to bump by</p> <p>3 seniority into a merchandising position?</p> <p>4 A. That's correct.</p> <p>5 Q. And you never asked Mike</p> <p>6 what he meant by that letter?</p> <p>7 A. Again, I sent him a letter</p> <p>8 for the rank on the seniority, rank on</p> <p>9 the lists, I wanted to talk about annual</p> <p>10 job bidding, I wanted to talk about</p> <p>11 seniority, the layoffs. Never got that</p> <p>12 opportunity. It's unfortunate.</p> <p>13 Q. I'm sorry, Mr. Potts. If</p> <p>14 you look at Deposition Exhibit, I</p> <p>15 believe it's 36, your October 15 letter</p> <p>16 -- it's 37, excuse me, your October 15</p> <p>17 letter?</p> <p>18 A. 37 is grievance 4956.</p> <p>19 Q. I apologize. You were</p> <p>20 holding this letter right here.</p> <p>21 A. 39, okay. I'm sorry.</p> <p>22 Q. 38.</p> <p>23 A. Okay.</p> <p>24 Q. The only subject out of all</p> <p>25 the ones you just enumerated that is</p>	<p>1 branch manager, and Teamsters Local 377,</p> <p>2 did you receive this correspondence?</p> <p>3 A. No.</p> <p>4 Q. Union didn't give you a copy</p> <p>5 of this correspondence?</p> <p>6 A. No, I wish they did.</p> <p>7 Q. According to this</p> <p>8 correspondence it states that, and I'm</p> <p>9 going to paraphrase and feel free to</p> <p>10 correct me if I paraphrase incorrectly,</p> <p>11 that on September 30, 2010 the company</p> <p>12 extended you a written job offer for a</p> <p>13 merchandising position, requested you to</p> <p>14 indicate your acceptance by October 15,</p> <p>15 2010, otherwise, the company would have</p> <p>16 to terminate your employment and you did</p> <p>17 not response to that job offer. Instead</p> <p>18 of terminating your employment, on</p> <p>19 October 14 the company give you</p> <p>20 additional time to accept the job offer</p> <p>21 and arranged a meeting for October 21 to</p> <p>22 discuss the matter. You didn't attend</p> <p>23 that meeting.</p> <p>24 Thus on October 21 the company</p> <p>25 again extended the time until November</p>
Page 239	Page 241
<p>1 actually contained within that</p> <p>2 deposition exhibit is your request to</p> <p>3 confirm your seniority on the plant-wide</p> <p>4 seniority list, correct?</p> <p>5 A. Correct.</p> <p>6 Q. I note on Deposition Exhibit</p> <p>7 40 your union is copied on that</p> <p>8 correspondence, correct?</p> <p>9 A. Okay, yeah.</p> <p>10 Q. Union never passed that along</p> <p>11 to you?</p> <p>12 A. No, I wish they did.</p> <p>13 -----</p> <p>14 (Thereupon, Deposition</p> <p>15 Exhibit-41 was marked for</p> <p>16 purposes of identification.)</p> <p>17 -----</p> <p>18 Q. Handing you what's been</p> <p>19 marked Deposition Exhibit 41.</p> <p>20 A. Yeah.</p> <p>21 Q. Copy of a correspondence from</p> <p>22 Mr. Bobal to yourself sent certified</p> <p>23 mail, December 13th, 2010, copy to Jeff</p> <p>24 Karla, regional HR manager, Joe</p> <p>25 LaMantia, L A M A N T I A, Youngstown</p>	<p>1 5th for you to consider the company's</p> <p>2 job offer, the merchandising position.</p> <p>3 Once again, you didn't respond.</p> <p>4 On November 10th, 2010 the</p> <p>5 company sent you additional</p> <p>6 correspondence giving you until November</p> <p>7 19th to accept the merchandising</p> <p>8 position and again you didn't respond.</p> <p>9 And Mr. Karla also tried to call you by</p> <p>10 telephone on multiple occasions. As a</p> <p>11 result of your lack of response, in</p> <p>12 accordance with the seniority terms of</p> <p>13 the contract, your employment was to be</p> <p>14 terminated effective December 1st, 2010.</p> <p>15 Is that an accurate recitation of the</p> <p>16 document?</p> <p>17 A. Say that again, please.</p> <p>18 Q. Have I accurately represented</p> <p>19 the substance of this document?</p> <p>20 A. Today is the first time I</p> <p>21 see it, yeah.</p> <p>22 Q. So you don't know what was</p> <p>23 said on the October 21st meeting with</p> <p>24 the company because you weren't there,</p> <p>25 correct?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 242	Page 244
<p>1 A. Correct.</p> <p>2 Q. So if you didn't receive</p> <p>3 this document, Deposition Exhibit 41 --</p> <p>4 A. Yes.</p> <p>5 Q. -- when did you find out</p> <p>6 that your employment had been</p> <p>7 terminated?</p> <p>8 A. I got a COBRA notice in the</p> <p>9 mail and I was shocked and surprised, it</p> <p>10 said termination December 2nd.</p> <p>11 Q. So the first time you</p> <p>12 realized that you had been terminated</p> <p>13 from the company was in February of</p> <p>14 2011?</p> <p>15 A. Yeah, I got a payroll check</p> <p>16 at December 23rd or 24th of 2010.</p> <p>17 Q. That was for a bonus,</p> <p>18 correct?</p> <p>19 A. That's what it said.</p> <p>20 Q. You were not paid for any</p> <p>21 wages, however, though, correct?</p> <p>22 A. I don't know if a bonus is</p> <p>23 considered wages. I just know it was</p> <p>24 an amount. I assumed I was still</p> <p>25 employed, had health care, had</p>	<p>1 MS. MCARDLE: Why don't we take</p> <p>2 a lunch break?</p> <p>3 (Luncheon recess had.)</p> <p>4 -----</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 243	Page 245
<p>1 everything.</p> <p>2 Q. We don't have any</p> <p>3 documentation of any correspondence that</p> <p>4 you sent to the union post October 2010,</p> <p>5 did you not write any correspondence to</p> <p>6 the union?</p> <p>7 A. Please repeat that.</p> <p>8 Q. We don't have any</p> <p>9 correspondence that you wrote to the</p> <p>10 union post October 2010, did you not</p> <p>11 write any correspondence to the union</p> <p>12 after that time?</p> <p>13 A. I'm not sure, really.</p> <p>14 Q. Well, you had several</p> <p>15 outstanding grievances, correct?</p> <p>16 A. Correct. Unfortunately, the</p> <p>17 union withdrew, vacated my membership</p> <p>18 November 17, 2010. So I was out of the</p> <p>19 union so they probably didn't want to</p> <p>20 deal with me anymore. They send me a</p> <p>21 refund check dated November 19, 2010. I</p> <p>22 got a check, refunded dues and backdated</p> <p>23 and vacated it to March of 2010. I</p> <p>24 figured my grievances was done, I</p> <p>25 figured everything was moot.</p>	<p>1 AFTERNOON-SESSION</p> <p>2 CONTINUED EXAMINATION OF ROBERT A. POTTS</p> <p>3 BY-MS.MCARDLE:</p> <p>4 Q. Mr. Potts, you understand</p> <p>5 you're still under oath?</p> <p>6 A. Yes.</p> <p>7 Q. Could you pull out Deposition</p> <p>8 Exhibit 16 for me, please? If you</p> <p>9 could turn to ABC 70, I know we</p> <p>10 discussed Section 9 earlier at the</p> <p>11 bottom of that page, I just wanted to</p> <p>12 clarify something. So under Section 9</p> <p>13 it starts, "Under the following</p> <p>14 conditions any employee shall lose his</p> <p>15 seniority (terminated from employment)."</p> <p>16 So it was your understanding</p> <p>17 based on reviewing the collective</p> <p>18 bargaining agreement that losing your</p> <p>19 seniority was equivalent to termination</p> <p>20 of your employment?</p> <p>21 A. True.</p> <p>22 Q. I know I asked whether the</p> <p>23 union passed along Exhibits 40 or 41 to</p> <p>24 you, on which the union is indicated as</p> <p>25 being copied, and your answer was no.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 246	Page 248
<p>1 Did the union ever give you a phone 2 call and say, hey, Robert, we received 3 this correspondence and let you know 4 what was in it? 5 A. Unfortunately, no. 6 Q. Having -- and if you need to 7 take the time, please do so, but having 8 read 40 and 41, if you had received 9 them would you have accepted the 10 company's offer for the merchandising 11 position? 12 A. I definitely would have to 13 consider it among all the other stuff. 14 Q. I'm not sure what you mean 15 among all the other stuff? 16 A. Well, I would consider their 17 offer together with the seniority, the 18 annual job bidding, all that stuff. 19 Q. I guess I'm not following. 20 Your answer is that you would consider 21 the offer but your acceptance would be 22 dependent on other things, is that what 23 you're saying? 24 A. I said -- 25 MR. ROSSI: Object to the extent</p>	<p>1 MS. MCARDLE: Job bidding. 2 MR. ROSSI: Job bidding. Thank 3 you. 4 Q. So I just want to make sure 5 I understand your answer and I 6 understand this is all in hindsight 7 because you say you didn't receive these 8 letters, but my understanding of what 9 you just said is had you received the 10 letters you're not sure whether you 11 would have accepted the merchandising 12 position because it depended upon the 13 resolution of other items? 14 A. Well, they would have to -- 15 Q. Is that true? 16 A. You could say that. 17 Q. I think you alluded to this 18 earlier, you were paying union dues on a 19 monthly basis, correct? 20 A. Yes. 21 Q. So as a result of that you 22 certainly expected that the union would 23 be acting on your behalf in matters 24 relating to your employment with ABC, is 25 that right?</p>
Page 247	Page 249
<p>1 it calls for speculation, but go ahead, 2 Robert. 3 A. Okay. Well, really getting 4 into the situation, there's still stuff 5 that needed to be dealt with and 6 unfortunately it wasn't. I never got 7 any answers so I didn't get material, 8 didn't get stuff, no meetings. I wasn't 9 -- I don't know what's going on back 10 and forth. So regarding to the annual 11 job bidding I'm still -- there's an 12 issue there why I wasn't involved with 13 the annual job bidding, issues with the 14 seniority stuff, regarding to the 15 decisions of 9-30-2010, a lot of issues 16 that would need to go together with this 17 too. 18 Q. Do you know why you weren't 19 part of the annual job bidding? 20 A. I wish I did, I don't know. 21 Q. Did you ask ABC why you 22 weren't part of the annual job bidding? 23 A. I didn't get the opportunity. 24 MR. ROSSI: I'm sorry, the annual 25 what?</p>	<p>1 A. Yes. 2 Q. And in connection with the 3 issue of the September 2009 layoff and 4 related matters, I guess is how you've 5 described it, that were discussed at the 6 September 14, 2010 meeting, you believed 7 the union was acting upon your behalf, 8 is that right? 9 A. At that time, yes. 10 Q. Is there a time that you 11 believe the union stopped acting upon 12 your behalf? 13 A. Obviously, yes. 14 Q. When do you believe that 15 occurred that the union stopped acting 16 on your behalf? 17 A. You know, when I brought to 18 their attention that there's no annual 19 job bid for me, I didn't participate, 20 wasn't called, discrepancies on the 21 seniority lists, a lot of that stuff, 22 plus they vacated my membership, 23 refunded my money for the dues back to 24 March, obviously they didn't want 25 nothing to do with me.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 250	Page 252
<p>1 Q. So is there a date upon 2 which you believe the union ceased 3 acting on your behalf? 4 A. Definitely I would say 5 November 17, 2010. 6 Q. Why does November 17, 2010 7 stick in your mind as the date that the 8 union stopped acting on your behalf, is 9 that when they notified you that you 10 were -- they refunded your dues and that 11 they were retroactively terminating your 12 membership in the Teamsters? 13 A. Sometime after that, I don't 14 know the specific dates but that's the 15 dates on their correspondence, 16 everything is backdated. There is stuff 17 from December but dated November. 18 Q. So up until learning that 19 the union was refunding your dues and 20 removing you from the roles of Teamsters 21 you had every reason to believe they 22 were acting on your behalf in connection 23 with employment matters relating to ABC? 24 A. Yeah, I thought they would. 25 Q. I wanted to clarify something</p>	<p>1 THE REPORTER: You said Exhibits 2 41 and 42. 3 Q. I'm sorry, thank you. I 4 meant to say 40 and 41. So your answer 5 doesn't change though, the first time 6 you learned you hadn't received 40 and 7 41 was during discovery in this case? 8 A. Yes. 9 Q. And I think those were 10 produced sometime in April or May of 11 2011 to your attorney, does that sound 12 about right? 13 A. It sounds right. 14 Q. When you first then realized 15 in April or May of 2011 that you hadn't 16 received this correspondence, Deposition 17 Exhibits 40 and 41, did you try to 18 contact the company and say, hey, I 19 think there's been a misunderstanding? 20 A. Michael already -- Bobal 21 already said don't call him, talk to him 22 or anything, October 25th, 2010 so 23 there's nothing I can do about it. My 24 union membership is vacated 11-17-2010, 25 I got nobody to contact, talk, consult,</p>
Page 251	Page 253
<p>1 about Deposition Exhibit 33, that's the 2 September 30, 2010 letter from Mr. 3 Bobal. 4 A. Okay. 5 Q. I want to make sure I 6 understand, notwithstanding the contents 7 of Deposition Exhibit 33 you believed 8 you lost your seniority on September 9 21st, 2010? 10 A. It's fact, true, yes. 11 Q. I didn't ask you this 12 question about 41 and 40, when did you 13 first realize that you had not received 14 copies of these letters? 15 A. When my lawyer -- 16 Q. And don't tell me anything 17 he said but please continue. 18 A. When my lawyer showed me at 19 the office. 20 Q. So the first time you 21 realized that you had not received 22 copies of Exhibits 41 and 42 was during 23 discovery in this case? 24 A. True. 25 Q. And I think --</p>	<p>1 nothing. 2 Q. So despite the fact that you 3 obviously filed a lawsuit over the end 4 of your employment with ABC you didn't 5 even try to contact somebody at the 6 company and say, hey, I never got this 7 correspondence, Deposition Exhibits 40 8 and 41, and can we talk about the 9 merchandising position? 10 A. Well, I got legal counsel 11 and obviously I can't talk about it when 12 you got an attorney, they can't talk to 13 me. You know, back to the benefits you 14 said don't contact them and I had to 15 dial the 800 number, so I didn't contact 16 anybody. 17 Q. You testified earlier that 18 the first time you realized your 19 termination was effective December 1, 20 2010 was when you received your COBRA 21 notice, is that right? 22 A. First time the COBRA notice 23 said December 2nd, 2010. It was dated, 24 I believe, February 18th, I don't 25 remember when it reached the mailbox.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 254	Page 256
<p>1 Q. But that was when you 2 learned that your termination was 3 effective, we'll use December 2nd, 2010? 4 A. I was surprised, that was a 5 big surprised, yes. 6 Q. So the same question about 7 that. Did you at that point call 8 anybody at ABC or ask counsel to do so 9 on your behalf and say, hey, wait a 10 minute, I didn't understand this to be 11 the case? 12 A. Again, Mr. Bobal says don't 13 contact him, don't write him, don't 14 telephone him, fax him, anything. The 15 union got me vacated, I don't have any 16 union member, I don't have nobody. Done. 17 MR. ROSSI: Excuse me a second. 18 (Discussion between witness and 19 his counsel.) 20 MR. ROSSI: Thank you. 21 Q. And I wanted to revisit some 22 of your earlier testimony because I 23 don't think I asked you this question: 24 I had asked you to identify those 25 individuals within ABC whom you feel</p>	<p>1 A. No, didn't get the 2 opportunity. 3 Q. Any other reason why you 4 believe Mr. Bobal's conduct had anything 5 to do with your raising the 2010 vehicle 6 issue? 7 A. Say that again, please. 8 Q. Any other reason why you 9 think Mr. Bobal's conduct had anything 10 to do with your raising the 2010 vehicle 11 issue? 12 A. That should cover it. 13 Q. With regard to Mr. Taraba, 14 why do you think Mr. Taraba's conduct 15 had anything to do with your raising to 16 2010 vehicle issue? 17 A. Well, it makes him look bad. 18 Q. Any other reason why you 19 think Mr. Taraba's conduct had anything 20 to do with your raising the 2010 21 vehicle issue? 22 A. That should cover it. 23 Q. And with regards to Mr. 24 Stimmel, why is it that you think Mr. 25 Stimmel's conduct had anything do with</p>
Page 255	Page 257
<p>1 retaliated against you and you 2 identified -- within ABC you identified 3 John Taraba, Mike Bobal and Bill 4 Stimmel, correct? 5 A. Yes. 6 Q. And then I asked you what 7 conduct they engaged in and you 8 described the conduct that they engaged 9 in that you felt amounted to 10 retaliation, do you recall that 11 testimony? 12 A. Okay, yeah. 13 Q. Let's start with Mr. Bobal. 14 Why do you think Mr. Bobal's conduct had 15 anything to do with you raising the 2010 16 vehicle issue? 17 A. Well, his action is personal 18 against me. 19 Q. I'm not -- 20 A. He says it's harassment so 21 he said he had a harassment issue to 22 deal with, he said 9-14-2010. 23 Q. And you testified earlier you 24 didn't ask him what harassment issue he 25 was referring to?</p>	<p>1 your raising the 2010 vehicle issue? 2 A. Same reason, looks bad too. 3 Q. Any other reason? 4 A. That covers it. 5 Q. Up until the time you 6 received the COBRA notice dated February 7 18, 2011 you were still covered under 8 the company's health benefit plan, 9 correct? 10 A. I believe so. 11 Q. And you were paying -- you 12 paid a portion of your premiums which 13 were equivalent to those rates that you 14 paid as an active employee, is that 15 right? 16 A. I am not sure. If that what 17 it is, so be it. 18 Q. You were paying in the 19 neighborhood of \$40 a month for medical, 20 vision and dental, correct? 21 A. Yeah, that sounds right. 22 - - - - - 23 (Thereupon, Deposition 24 Exhibit-18 was marked for 25 purposes of identification.)</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 258	Page 260
<p>1 - - - - -</p> <p>2 Q. Showing you what's been</p> <p>3 marked Deposition Exhibit 18, which you</p> <p>4 produced, this appears to be a billing</p> <p>5 notice from Dr. Pepper Snapple dated</p> <p>6 November 10th, 2010 addressed to you at</p> <p>7 the Jeanette Drive address and there's a</p> <p>8 receipt attached at the bottom in the</p> <p>9 first and the second page, it looks</p> <p>10 like. My question is, this is a copy</p> <p>11 of a billing notice for your health</p> <p>12 benefits during this period of time and</p> <p>13 is this receipt your record of payment</p> <p>14 of those benefits?</p> <p>15 A. Fair enough, it appears to</p> <p>16 be.</p> <p>17 Q. And following up on the</p> <p>18 question I just asked you before showing</p> <p>19 you the document, if you turn to the</p> <p>20 second page of Deposition Exhibit 18 it</p> <p>21 shows medical, dental and vision</p> <p>22 coverage for the period December 1st,</p> <p>23 2010 through December 31st, 2010 with</p> <p>24 the total billing charge of 39.25, do</p> <p>25 you see that?</p>	<p>1 that?</p> <p>2 A. Yes.</p> <p>3 Q. So when you received this</p> <p>4 document you understood that you were</p> <p>5 still qualified for benefits through the</p> <p>6 period January 1, 2011 through December</p> <p>7 31, 2011, is that right?</p> <p>8 A. Through my open enrollment,</p> <p>9 yes.</p> <p>10 Q. And, again, looking at the</p> <p>11 charges on that first page, looks like</p> <p>12 for medical, it says employee assistance</p> <p>13 program and dental, you're paying in the</p> <p>14 neighborhood of \$35 a month, is that</p> <p>15 right?</p> <p>16 A. Fair enough.</p> <p>17 - - - - -</p> <p>18 (Thereupon, Deposition</p> <p>19 Exhibit-20 was marked for</p> <p>20 purposes of identification.)</p> <p>21 - - - - -</p> <p>22 Q. Showing you what's been</p> <p>23 marked Deposition Exhibit 20, another</p> <p>24 document you produced. This is a</p> <p>25 billing notice from Dr. Pepper Snapple,</p>
Page 259	Page 261
<p>1 A. Yes.</p> <p>2 Q. So that refreshes your</p> <p>3 recollection that you were paying in the</p> <p>4 neighborhood of \$40 a month for medical,</p> <p>5 dental and vision?</p> <p>6 A. Sure.</p> <p>7 Q. For December of 2010</p> <p>8 benefits?</p> <p>9 A. Sure.</p> <p>10 - - - - -</p> <p>11 (Thereupon, Deposition</p> <p>12 Exhibit-19 was marked for</p> <p>13 purposes of identification.)</p> <p>14 - - - - -</p> <p>15 Q. Showing you what's been</p> <p>16 marked Deposition Exhibit 19, this is a</p> <p>17 document that you produced from Dr.</p> <p>18 Pepper Snapple entitled welfare plan,</p> <p>19 confirmation of enrollment, statement</p> <p>20 date November 16, 2010 addressed to you</p> <p>21 at the Jeanette Drive address. And this</p> <p>22 confirms benefits coverage and benefits</p> <p>23 being effective January 1st, 2011 until</p> <p>24 December 31st, 2011 unless a qualified</p> <p>25 change in status occurs, do you see</p>	<p>1 statement date February 10th, 2011 to</p> <p>2 you at the Jeanette Drive address and it</p> <p>3 says it's a bill for your benefit</p> <p>4 coverage. It also appears that there's</p> <p>5 another customer receipt attached down</p> <p>6 at the bottom, is that the receipt for</p> <p>7 the amount that you paid for that</p> <p>8 benefit period?</p> <p>9 A. Appears to be, yes.</p> <p>10 Q. And, again, flipping to the</p> <p>11 second page it seems that the medical,</p> <p>12 dental and vision payments that you're</p> <p>13 paying for that period total \$40.25?</p> <p>14 A. Correct.</p> <p>15 Q. Did you ever wonder why you</p> <p>16 were still receiving billing for</p> <p>17 benefits and entitled to benefits after</p> <p>18 you had lost your seniority as you</p> <p>19 understood it as of September 21st, 09</p> <p>20 -- or excuse, 2010?</p> <p>21 A. Well, I figured I was still</p> <p>22 paying my union dues, there was an issue</p> <p>23 there that was never resolved because</p> <p>24 there was an accountability issue with</p> <p>25 money and that still gives me the right,</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 262	Page 264
<p>1 that was never resolved with union</p> <p>2 rights stuff because there's an</p> <p>3 accounting issue that was never resolved</p> <p>4 that I thought, you know, I could still</p> <p>5 go back to that higher up but never</p> <p>6 did. And also I believed I was still</p> <p>7 employed at that time despite union</p> <p>8 doing whatever they did.</p> <p>9 Q. So despite the fact that you</p> <p>10 believed your seniority -- that you lost</p> <p>11 your seniority September 21st, 2010, you</p> <p>12 still believed you were entitled to</p> <p>13 benefit coverage after that point?</p> <p>14 A. I don't know too much about</p> <p>15 what the union rights are, stuff on</p> <p>16 that. I assume I was still entitled</p> <p>17 being a card holder and I know I could</p> <p>18 still pay dues for six months after</p> <p>19 anything and I didn't get that</p> <p>20 opportunity to continue paying my union</p> <p>21 dues from December -- or from October</p> <p>22 15th on. Like I said, they vacated it,</p> <p>23 the union membership status, refunded</p> <p>24 the money, the issue was never resolved,</p> <p>25 they never responded to my communication</p>	<p>1 A. The union, the company,</p> <p>2 concerted, unconcerted, I don't know,</p> <p>3 each party is engaging in backdating.</p> <p>4 Q. Who at the company is</p> <p>5 engaging in backdating?</p> <p>6 A. I wouldn't know.</p> <p>7 Q. And what document do you</p> <p>8 assert the company has backdated?</p> <p>9 A. Benefit stuff has different</p> <p>10 dates changing all the time.</p> <p>11 Q. I'm sorry, what benefits</p> <p>12 dates are changing all the time?</p> <p>13 A. A lot of the COBRA stuff</p> <p>14 dates was changed, enrollment dates,</p> <p>15 coverage dates.</p> <p>16 Q. In fact, the company extended</p> <p>17 your period of time to elect COBRA to</p> <p>18 May 29th, 2010 in light of the</p> <p>19 reissuance of the COBRA notice, correct?</p> <p>20 A. On my calls, yes.</p> <p>21 Q. The question I had was, in</p> <p>22 fact, the company extended the period in</p> <p>23 which you could elect COBRA coverage</p> <p>24 through May 29th, 2011 after reissuing a</p> <p>25 COBRA notice in March of 2011, correct?</p>
Page 263	Page 265
<p>1 so...</p> <p>2 Q. In fact, you testified that</p> <p>3 the union withdrew your membership in</p> <p>4 November of 2010, correct?</p> <p>5 A. Correct.</p> <p>6 Q. But you were still receiving,</p> <p>7 at least according to Deposition Exhibit</p> <p>8 20, benefit statements covering periods</p> <p>9 past that into February 2011?</p> <p>10 A. I recall a date on that of</p> <p>11 being December 9th. I don't know why</p> <p>12 they're backdating stuff. I don't know</p> <p>13 if they're misrepresenting, I don't know</p> <p>14 what they're doing, everything --</p> <p>15 Q. I'm sorry, who's backdating</p> <p>16 stuff?</p> <p>17 A. The union. The material</p> <p>18 they give me says signed under their</p> <p>19 hand and seal December 9th, 2010. So</p> <p>20 backdating -- everybody is backdating</p> <p>21 and substituting dates and everything</p> <p>22 else, you know, why are the union</p> <p>23 different than the company.</p> <p>24 Q. Who's everybody, sir, that's</p> <p>25 backdating and substituting dates?</p>	<p>1 A. Yes.</p> <p>2 Q. Upon receipt of the February</p> <p>3 2011 COBRA notice when you learned that</p> <p>4 your employment had been terminated</p> <p>5 effective December 2nd, 2010, did the</p> <p>6 company ever request that you reimburse</p> <p>7 them for the difference between COBRA</p> <p>8 coverage rates and what you paid?</p> <p>9 A. Nothing, no.</p> <p>10 Q. And to your point you filed</p> <p>11 the second amended complaint, I believe</p> <p>12 we determined, on March 1st, 2011 in</p> <p>13 which you asserted your COBRA notice</p> <p>14 claims and within three weeks ABC issued</p> <p>15 a new COBRA notice, correct?</p> <p>16 A. I recall, yes.</p> <p>17 Q. Now, despite receiving this</p> <p>18 COBRA notice, this updated COBRA notice,</p> <p>19 in March of 2011 you contacted the</p> <p>20 Department of Labor and claimed that ABC</p> <p>21 was not permitting you to elect COBRA,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And the ABC benefits manager</p> <p>25 attempted on several occasions to</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 266	Page 268
<p>1 contact you indicating it was trying to 2 assist you in electing COBRA? 3 A. We contacted each other back 4 and forth. 5 Q. And then at some point, I 6 believe in early May of 2011 you 7 contacted ABC's benefit center and 8 stated words to the effect of you 9 thought someone else was attempting to 10 elect COBRA on your behalf? 11 A. I may have said that. 12 Q. Who did you believe was 13 attempting to elect COBRA on your 14 behalf? 15 A. I don't know. 16 Q. You also told the ABC 17 benefits center that you did not plan to 18 elect COBRA at that time? 19 A. Under the circumstances of 20 all the confusion and the process with 21 the date being extended, that's true. 22 Q. And you also told the ABC 23 benefit center sometime in the beginning 24 of 2011 that you were unclear about your 25 employment status with ABC?</p>	<p>1 Q. Shortly before you filed the 2 second amended complaint that's 3 Deposition Exhibit 1, you also filed a 4 NLRB charge against ABC, is that right? 5 A. Yes, it's withdrawn. 6 Q. Yes, the NLRB withdrew that 7 charge, correct? 8 A. I did. 9 Q. Why did you withdraw that 10 charge? 11 A. Because I have no experience 12 with all that and just withdrew it. 13 Q. So your withdrawing of the 14 charge had nothing to do with the fact 15 that the NLRB contacted you and said 16 that you must provide them with an 17 affidavit for them to continue 18 processing your charge? 19 A. No, I got more -- I'd be 20 more than happy to take the affidavit 21 with them or draft it myself and go 22 before a notary. 23 Q. So I just want to make sure 24 I understand, you decided not to pursue 25 the NLRB charge against ABC because you</p>
Page 267	Page 269
<p>1 A. Possible. 2 Q. How is it that you were 3 unclear about your employment status as 4 late at early May of 2011? 5 A. Well, because there's a lot 6 of unanswered questions. 7 Q. Such as what? 8 A. Back to the annual job 9 bidding, seniority stuff, employee 10 rights, union rights, my status, there's 11 a lot. 12 Q. So despite receiving a COBRA 13 notice that indicated your termination 14 was effective December 2nd, 2010 you 15 were unclear about that? 16 A. Even the dates on that, when 17 the company says December 1st, then the 18 company says December 2nd, there's even 19 confusion in those two dates. 20 Q. Yes, the company did say 21 effective December 1st, 2010, correct? 22 A. The company also said 23 December 2nd, 2010 and I also got a 24 payroll check December 23rd, 2010 when I 25 believed I was still employed.</p>	<p>1 don't have experience in those matters? 2 A. Yeah, I just basically 3 decided to drop it. I just decided my 4 choice and withdrew it. I did one 5 against the union and I withdrew it too. 6 Q. That was going to be my next 7 question. After the NLRB or after the 8 charge against ABC was withdrawn you 9 filed one against the union, correct? 10 A. Correct. 11 Q. And you said you decided to 12 withdraw that charge? 13 A. Yeah. 14 Q. Why did you withdraw that 15 charge against the union? 16 A. My choice. 17 Q. I understand it was your 18 choice, but what was your rationale for 19 withdrawing the charge against the 20 union? 21 A. Just picked up the phone and 22 say withdraw it. 23 Q. Maybe I'm asking a poor 24 question. I understand that's the 25 mechanism by which you did it but why</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 270	Page 272
<p>1 did you decide to withdraw that charge, 2 not how?</p> <p>3 A. Didn't want to cause any 4 more friction between union and whatever 5 else, just to drop it, withdraw.</p> <p>6 Q. Did you receive any 7 communications from the union after you 8 filed that charge?</p> <p>9 A. None.</p> <p>10 Q. So what friction are you 11 referring to?</p> <p>12 A. Back and forth, I mean, 13 there was a lot of, you know, I'm 14 telling them about accountability, about 15 union dues, money, I'm saying that they 16 mismanaged, there's accounting errors, 17 there's maybe wrongdoing. So I started 18 some issues in the union internally, 19 didn't jive, didn't -- wasn't logical. 20 Didn't get anywhere, nobody cared.</p> <p>21 - - - - -</p> <p>22 (Thereupon, Deposition 23 Exhibit-21 was marked for 24 purposes of identification.) 25 - - - - -</p>	<p>1 A. That will work.</p> <p>2 Q. And that's your signature 3 under the declaration section of the 4 document?</p> <p>5 A. Yeah.</p> <p>6 Q. Right above your signature it 7 says, "I declare that I read the above 8 charge and the statements are true to 9 the best of my knowledge and belief." 10 Did I read that correctly?</p> <p>11 A. Yes.</p> <p>12 Q. So in signing this 13 declaration you were in fact asserting 14 to the NLRB that the contents of your 15 charge against ABC was true to the best 16 of your knowledge and belief?</p> <p>17 A. Yeah.</p> <p>18 - - - - -</p> <p>19 (Thereupon, Deposition 20 Exhibit-23 was marked for 21 purposes of identification.) 22 - - - - -</p> <p>23 Q. Showing you what's been 24 marked as Deposition Exhibit 23, is this 25 a copy of the charge you filed against</p>
Page 271	Page 273
<p>1 Q. I don't think I actually 2 introduced this. I'm handing you what's 3 been marked as Deposition Exhibit 21, 4 can you confirm that this is the updated 5 COBRA notice that was issued to you by 6 the company on or about March 23rd, 7 2011?</p> <p>8 A. It appears to be.</p> <p>9 - - - - -</p> <p>10 (Thereupon, Deposition 11 Exhibit-22 was marked for 12 purposes of identification.) 13 - - - - -</p> <p>14 Q. Handing you Deposition 15 Exhibit 22, is this the charge that you 16 filed against ABC with the National 17 Labor Relations Board?</p> <p>18 A. It was an amended charge, I 19 believe. I can't recall. Possible.</p> <p>20 Q. I believe that you filed or 21 at least had a charge that was not 22 signed and then you submitted one that 23 was signed and this is the signed 24 version of it, does that refresh your 25 recollection?</p>	<p>1 the union with the NLRB?</p> <p>2 A. Yes, it was drafted on my 3 behalf, yes.</p> <p>4 Q. And this is your signature 5 in the declaration section?</p> <p>6 A. Yeah.</p> <p>7 Q. This document also states 8 above your signature, "I declare that I 9 read the above charge and that the 10 statements are true to the best of my 11 knowledge and belief." Did I read that 12 correctly?</p> <p>13 A. Yeah.</p> <p>14 Q. And signing this document, 15 Deposition Exhibit 23, you were 16 certifying to NLRB that the contents of 17 your charge against the union and the 18 statements made therein were true to the 19 best of your knowledge and belief, 20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. The second paragraph of your 23 charge against the union you say, "On or 24 about November 17th, 2010 it, a labor 25 organization, by its officers, agents</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 274

1 and representatives, caused American
 2 Bottling Company dba 7-Up Bottling Co.
 3 to discriminate against Robert Potts,
 4 (1) in violation of Section 8(a)(3) of
 5 the Act and (2) whose membership in the
 6 said labor organization was terminated
 7 for reasons other than failure to tender
 8 periodic dues uniformly required as a
 9 condition of membership." Did I read
 10 that correctly?
 11 A. Yes.
 12 Q. Do you know what an 8(a)(3)
 13 violation is?
 14 A. Catherine drafted it on my
 15 behalf, I really don't know.
 16 Q. Okay.
 17 A. Catherine Modic, I think.
 18 Q. You indicate in here that
 19 the union caused ABC to discriminate
 20 against you?
 21 A. Where are you reading that?
 22 Q. The sentence I just read.
 23 A. On or about what?
 24 Q. In that paragraph right
 25 before the number 1.

Page 275

1 A. What paragraph, second
 2 paragraph?
 3 MR. ROSSI: Right here, caused
 4 these parties to discriminate against
 5 Robert Potts.
 6 A. Yeah, there was an amended
 7 charge here so that -- I forgot what
 8 the amendment -- it was December, I
 9 think.
 10 Q. I'm sorry?
 11 A. I don't know why she wrote
 12 November 17th there. I eventually
 13 amended this charge.
 14 Q. What did you change in the
 15 amended charge?
 16 A. I have to look at it. She
 17 amended it for me too, Catherine Modic.
 18 Q. Yes. To my knowledge there
 19 was no amended charge that we were
 20 provided, but setting that aside, what
 21 did you mean by the union caused ABC to
 22 discriminate against you?
 23 A. Again, Catherine Modic, the
 24 NLRB agent, drafted this on my behalf.
 25 She must have used the dates on the

Page 276

1 above for the date for the second
 2 paragraph.
 3 Q. Setting aside the date --
 4 A. Oh.
 5 Q. -- what do you understand
 6 that you were saying to NLRB when you
 7 certified that the union had caused ABC
 8 to discriminate against you to be a true
 9 statement?
 10 A. Oh, when they vacated my
 11 membership, you know, I got no
 12 protection for the union.
 13 Q. So the discrimination
 14 referred to in that sentence relates to
 15 the vacating of your union membership?
 16 A. Yeah, I'm not covered by any
 17 union anything and obviously them two
 18 can get together and concerted, you
 19 know, whatever.
 20 Q. I'm not following because
 21 this doesn't say concerted. This says
 22 that --
 23 A. Yeah.
 24 Q. -- the union caused ABC to
 25 discriminate against you. What I'm

Page 277

1 trying to understand is when you
 2 certified that the information set forth
 3 in this charge was true to the best
 4 of your knowledge and belief, what did you
 5 understand you were certifying as it
 6 relates to the union's causing ABC to
 7 discriminate against you?
 8 A. I believe it was true based
 9 on Catherine drafting it. I don't know
 10 what language, why she chose it.
 11 Q. So you don't have any idea
 12 what the discrimination that is referred
 13 to in this charge relates to?
 14 A. No. In good faith I thought
 15 Catherine was drafting it.
 16 - - - - -
 17 (Thereupon, Deposition
 18 Exhibit-24 was marked for
 19 purposes of identification.)
 20 - - - - -
 21 Q. Showing you what's been
 22 marked Deposition Exhibit 24 --
 23 A. Yes.
 24 Q. -- this is a document that
 25 you produced to us in discovery, this is



Cefaratti Group
 THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
 Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 278	Page 280
<p>1 a copy of your current resume?</p> <p>2 A. Sure.</p> <p>3 Q. Is anything inaccurate in</p> <p>4 Deposition Exhibit 24?</p> <p>5 A. Maybe because there's</p> <p>6 discrepancies on the end date for</p> <p>7 Sypris.</p> <p>8 Q. What do you mean by that?</p> <p>9 A. Well, I was eligible for TAA</p> <p>10 but there's disputing dates saying 06,</p> <p>11 08, it's unresolved so...</p> <p>12 Q. TAA, is that referring to</p> <p>13 retirement benefits, what does that</p> <p>14 refer to?</p> <p>15 A. I'm new to all that. Trade</p> <p>16 act --</p> <p>17 MR. ROSSI: Trade Adjustment Act.</p> <p>18 Q. Trade Adjustment Act, okay.</p> <p>19 I'm sorry, so you're saying -- oh, I</p> <p>20 see what you're -- so this relates to</p> <p>21 employee benefits that Sypris may or may</p> <p>22 not be obligated to provide under the</p> <p>23 TAA?</p> <p>24 A. Union issues again, I have</p> <p>25 seniority, the plant closed at Sypris in</p>	<p>1 Q. You weren't performing work</p> <p>2 for them?</p> <p>3 A. Right.</p> <p>4 Q. So other than the date for</p> <p>5 Sypris is there anything else that's not</p> <p>6 accurate in Deposition Exhibit 24?</p> <p>7 A. Let's see. Oh, full-time</p> <p>8 stuff looks okay. Sure.</p> <p>9 Q. So according to Deposition</p> <p>10 Exhibit 24, prior to Sypris you worked</p> <p>11 for a company called Neff-Perkins, is</p> <p>12 that right?</p> <p>13 A. Yeah.</p> <p>14 - - - - -</p> <p>15 (Thereupon, Deposition</p> <p>16 Exhibit-42 was marked for</p> <p>17 purposes of identification.)</p> <p>18 - - - - -</p> <p>19 Q. Showing you what's been</p> <p>20 marked Deposition Exhibit 42, this is a</p> <p>21 document we received in response to a</p> <p>22 subpoena issued to Neff-Perkins Company</p> <p>23 for your personnel records. This bears</p> <p>24 Bates label Neff-Perkins 36 through 41</p> <p>25 and appears to be a copy of your job</p>
Page 279	Page 281
<p>1 2009, my seniority should have went into</p> <p>2 2009 at the plant closure but my</p> <p>3 seniority went to June 1st, 2008 but,</p> <p>4 however, my last day physically in the</p> <p>5 plant was in October 26th, 27th of 2006.</p> <p>6 But still under the collective</p> <p>7 bargaining agreement, still an employee</p> <p>8 covered by seniority. So with the TAA</p> <p>9 I don't know what's going on with that,</p> <p>10 may or may not, all new to it.</p> <p>11 Q. So, in other words, I think</p> <p>12 what you're saying is that you were</p> <p>13 notified you were being laid off on</p> <p>14 October 26th, 2006 with and under the</p> <p>15 terms of the applicable collective</p> <p>16 bargaining agreement your seniority</p> <p>17 would continue for a period, I believe,</p> <p>18 of four years?</p> <p>19 A. Yeah.</p> <p>20 Q. But you didn't physically</p> <p>21 work for Sypris after October 26th,</p> <p>22 2006?</p> <p>23 A. I was still employed, I</p> <p>24 guess, under the seniority, but I wasn't</p> <p>25 there.</p>	<p>1 application for Neff --</p> <p>2 A. Yes.</p> <p>3 Q. -- Perkins Company. With</p> <p>4 regards to this document, Deposition</p> <p>5 Exhibit 42, is there anything inaccurate</p> <p>6 in this document?</p> <p>7 A. Yes.</p> <p>8 Q. What's inaccurate?</p> <p>9 A. Employment history,</p> <p>10 references.</p> <p>11 Q. Those are inaccurate?</p> <p>12 A. Yeah.</p> <p>13 Q. I'm sorry?</p> <p>14 A. Yes.</p> <p>15 Q. Specifically what about your</p> <p>16 employment history is not accurate?</p> <p>17 A. I never worked for any of</p> <p>18 them companies.</p> <p>19 Q. And then about the</p> <p>20 references, what is not accurate?</p> <p>21 A. Don't know any of them.</p> <p>22 Don't know if they exist, nothing.</p> <p>23 Q. Do you have an idea, an</p> <p>24 understanding of why you included that</p> <p>25 information in this application if you</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 282	Page 284
<p>1 didn't work for those companies and 2 those individuals you don't know? 3 A. You have to ask the company, 4 I don't know nothing about it. 5 Q. I'm not sure what you mean. 6 I have to ask the company about your 7 employment application and the 8 information you put in your application? 9 A. Well, I mean, I'm not even 10 sure if this is the actual application 11 but -- I don't know if this is a page 12 in order from what I did, but I'm 13 telling you it's inaccurate. 14 Q. So are you asserting that 15 you did not complete this employment 16 application? 17 A. At least not that section or 18 a part of whatever the record is. 19 Q. So you're saying that's not 20 your handwriting? 21 A. It's possible. I don't know 22 what this is with this part of the 23 application in sequence or why it's 24 there. 25 (Discussion between witness and</p>	<p>1 learn that Neff-Perkins records show 2 that you were a no call no show for two 3 days at which time they deemed you to 4 quit your employment? 5 A. Wouldn't surprise me. 6 Q. Why would that not surprise 7 you, because it's true? 8 A. They can do whatever they 9 want. 10 Q. So are you asserting that 11 Neff-Perkins has fabricated a document 12 relating to how it is you left their 13 employment? 14 A. Sure. 15 Q. Just like the union is 16 fabricating documents and the company is 17 fabricating documents? 18 A. Yeah, this is a different -- 19 MR. ROSSI: Objection. Don't 20 answer. 21 Q. Actually you're required to 22 answer the question. The only time you 23 can't answer a question during a 24 deposition -- 25 MR. ROSSI: It wasn't a question,</p>
Page 283	Page 285
<p>1 his counsel.) 2 Q. Looking at Deposition Exhibit 3 25. 4 A. 25. 5 MR. ROSSI: Your resume. 6 Q. I would like to look at the 7 second part of Deposition Exhibit 25 8 which is your application for employment 9 with ABC company. 10 MR. ROSSI: Okay. You got them? 11 A. Not finding them quickly. 12 MR. ROSSI: Here, try that. 13 A. Oh, here it is. 14 Q. If you could turn to the 15 employment history section of your 16 application with ABC. 17 A. Yes. 18 Q. You have Neff-Perkins Company 19 listed there? 20 A. Yes. 21 Q. And you say the reason for 22 leaving is short-term/seasonal, do you 23 see that? 24 A. Yes. 25 Q. So would it surprise you to</p>	<p>1 it was an argument. Don't answer it. 2 Q. Are you asserting -- 3 MR. ROSSI: No. 4 Q. -- that Neff-Perkins is 5 fabricating documents in its personnel 6 file pertaining to you? 7 MR. ROSSI: Go ahead. 8 A. It appear so. 9 Q. So as you sit here today 10 testifying under oath it's your position 11 you were not a no call no show for two 12 days at Neff-Perkins which led to them 13 ending your employment? 14 A. I did everything they asked 15 at all times. 16 Q. That's not my question. 17 Sitting here today under oath it's your 18 testimony that you did not engage in a 19 no call no show on two days which led 20 to the termination of your employment 21 with Neff-Perkins? 22 A. That's correct. 23 24 (Thereupon, Deposition 25 Exhibit-43 was marked for</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 286	Page 288
<p>1 purposes of identification.)</p> <p>2 - - - - -</p> <p>3 MS. MCARDLE: I'm just going to</p> <p>4 put this in for the record. This is</p> <p>5 Deposition Exhibit 43 which is a copy of</p> <p>6 the change in status form that was</p> <p>7 submitted to us in response to a</p> <p>8 subpoena issued to Neff-Perkins, which</p> <p>9 also along with it was an affidavit of</p> <p>10 authenticity of the contents of your</p> <p>11 personnel file.</p> <p>12 MR. ROSSI: What Exhibit Number</p> <p>13 is this?</p> <p>14 MS. MCARDLE: 43.</p> <p>15 Q. Now, again, according to your</p> <p>16 resume, which is Deposition Exhibit 24,</p> <p>17 prior to Neff-Perkins you worked for a</p> <p>18 company called General Extrusions, is</p> <p>19 that right?</p> <p>20 A. Yes.</p> <p>21 - - - - -</p> <p>22 (Thereupon, Deposition</p> <p>23 Exhibit-44 was marked for</p> <p>24 purposes of identification.)</p> <p>25 - - - - -</p>	<p>1 A. 3, where is 3, what do you</p> <p>2 mean 3?</p> <p>3 MR. ROSSI: Page 3?</p> <p>4 Q. It's Bates labeled 2 through</p> <p>5 4 --</p> <p>6 A. Oh, okay, I'm sorry, yes.</p> <p>7 Q. -- so that would be the</p> <p>8 second page.</p> <p>9 A. Okay.</p> <p>10 Q. And I believe you testified</p> <p>11 in connection with your application to</p> <p>12 Neff-Perkins that you had not worked for</p> <p>13 these companies?</p> <p>14 A. Yeah, correct.</p> <p>15 Q. So these entities that you</p> <p>16 listed as being your present and past</p> <p>17 employment, you in fact did not work</p> <p>18 there?</p> <p>19 A. That's correct.</p> <p>20 Q. How about the personal</p> <p>21 references, do you know any of those</p> <p>22 people?</p> <p>23 A. I don't know if they exist</p> <p>24 or not. Don't know anybody.</p> <p>25 Q. The last page of this</p>
Page 287	Page 289
<p>1 Q. Showing you what's been</p> <p>2 marked as Deposition Exhibit 44, it's a</p> <p>3 copy of a document that we received in</p> <p>4 response to a subpoena issued to General</p> <p>5 Extrusions for the contents of your</p> <p>6 personnel records and accompanying the</p> <p>7 response was also an affidavit</p> <p>8 certifying the authenticity of the</p> <p>9 documents contained in that file. Is</p> <p>10 this a copy of your application for</p> <p>11 employment with GEI?</p> <p>12 A. It appears to be.</p> <p>13 Q. Is that your handwriting,</p> <p>14 sir?</p> <p>15 A. It appears to be.</p> <p>16 Q. This document is Bates</p> <p>17 labeled General Extrusions 2 through 4,</p> <p>18 and turning to General Extrusions number</p> <p>19 3 you indicated, I believe, in response</p> <p>20 to questions related to your application</p> <p>21 with Neff-Perkins that you had never</p> <p>22 worked for these companies, is that</p> <p>23 right?</p> <p>24 A. Where are we at?</p> <p>25 Q. It's General Extrusions 3.</p>	<p>1 document, last page of this document, is</p> <p>2 that your signature, sir?</p> <p>3 A. Yes.</p> <p>4 Q. And it's dated on or about</p> <p>5 October 24, 2005?</p> <p>6 A. Yeah.</p> <p>7 Q. This document says at the</p> <p>8 top, "Please read and sign below," in</p> <p>9 all caps. It says, "I understand and</p> <p>10 agree that any material</p> <p>11 misrepresentation or deliberate omission</p> <p>12 of a fact in my application may be</p> <p>13 justification for refusal or, if</p> <p>14 employed, termination from employment."</p> <p>15 Did I read that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. So you signed this document</p> <p>18 certifying to GEI that the contents of</p> <p>19 the document contained no material</p> <p>20 misrepresentation or deliberate omission</p> <p>21 of fact, correct?</p> <p>22 A. Correct.</p> <p>23 Q. Yet you included information</p> <p>24 for entities you never worked for and</p> <p>25 references of people you don't know?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 290	Page 292
<p>1 A. I don't know if it was the 2 complete document that was signed by me. 3 Page 1 or the Bates number 2 looks 4 correct and Bates number 4, page 3 looks 5 correct. Really, I don't know what to 6 say about 3, I can't answer that it, 7 ask the company. 8 Q. Are you asserting that's not 9 your handwriting? 10 A. It's possible. 11 Q. So is GEI another company 12 that you are claiming is falsifying 13 documentation pertaining to you? 14 MR. ROSSI: Objection, 15 foundation. 16 Q. I'm asking what you're 17 claiming, either you are or you're not. 18 Are you claiming that GEI is yet another 19 entity that is falsifying documentation 20 as it relates to you? 21 A. I don't know if they are or 22 not. 23 Q. So this could be your 24 handwriting, you're just -- 25 A. It's possible, I don't know.</p>	<p>1 Q. The assignment ended? 2 A. Yeah, yes, my assignment 3 ended. 4 Q. So who was the individual 5 that told you your assignment ended? 6 A. I can't recall. 7 Q. Because this references that 8 you shall leave employment with the 9 company two weeks before the above date. 10 It doesn't say anything about now that 11 my assignment is over I'm done and out 12 of here, right? 13 A. I didn't subscribe my 14 signature on this. I don't know if 15 it's out of context or -- I just know I 16 completed my assignment. 17 Q. Flipping the page there's an 18 attached document from your personnel 19 file at GEI entitled separation notice? 20 A. Yes. 21 Q. Date hire, October 26th of 22 05, and says type of separation, 23 resignation, do you see that? 24 A. Yes. 25 Q. It also states under remarks,</p>
Page 291	Page 293
<p>1 (Discussion between witness and 2 his counsel.) 3 - - - - - 4 (Thereupon, Deposition 5 Exhibit-45 was marked for 6 purposes of identification.) 7 - - - - - 8 Q. Handing you what's been 9 marked Deposition Exhibit 45, another 10 document we received from GEI in 11 response to the subpoena that we issued 12 for your personnel records. This 13 document appears to be a letter from you 14 to GEI dated December 16, 2005 in which 15 you're tendering your resignation 16 effective December 30, 2005, is that 17 right? 18 A. It appears. 19 Q. You had worked there for 20 about two months before you tendered 21 your resignation, is that right? 22 A. It appears. 23 Q. Why did you resign? 24 A. I did everything they asked, 25 everything was completed, I was done.</p>	<p>1 nonvested probationary employee, do you 2 see that? 3 A. Yes. 4 Q. Did you understand that you 5 were -- having only worked for GEI for 6 a period of less than two months you 7 were still a probationary employee? 8 A. If that's the case, fine. 9 - - - - - 10 (Thereupon, Deposition 11 Exhibit-46 was marked for 12 purposes of identification.) 13 - - - - - 14 Q. Showing you what's been 15 marked Deposition Exhibit 46 -- there 16 you go, Mike -- this appears to be a 17 letter to you dated January 4, 2006 from 18 GEI. It appears to be responding to 19 correspondence that perhaps you had sent 20 to GEI questioning your eligibility and 21 participation in their health and life 22 insurance programs, do you see that? 23 A. I see it. 24 Q. Did you contact GEI about 25 benefits that you felt that you were</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 294	Page 296
<p>1 owed after you resigned employment?</p> <p>2 A. No.</p> <p>3 Q. So they just -- GEI just</p> <p>4 sent you this correspondence out of the</p> <p>5 blue?</p> <p>6 A. I don't know, you have to</p> <p>7 ask them.</p> <p>8 Q. Did you contact GEI about</p> <p>9 continuation of coverage after you had</p> <p>10 resigned your employment with GEI in</p> <p>11 December of 05?</p> <p>12 A. I didn't have any coverage</p> <p>13 with GEI.</p> <p>14 Q. You've never filed a claim</p> <p>15 for Social Security benefits, have you?</p> <p>16 A. No.</p> <p>17 Q. You've been arrested before,</p> <p>18 is that right?</p> <p>19 MR. ROSSI: Object, relevance.</p> <p>20 Q. You're required to answer the</p> <p>21 question.</p> <p>22 A. Define arrest.</p> <p>23 Q. How do you define arrest?</p> <p>24 A. I don't know what the legal</p> <p>25 definition is. Incarcerated? No.</p>	<p>1 the light at the end of tunnel.</p> <p>2 A. I think two was in plain</p> <p>3 view and I think one was as a result of</p> <p>4 illegal search, that's what I recall.</p> <p>5 Q. So just to understand then,</p> <p>6 two of the knives were in plain view</p> <p>7 and one was what, not in plain view or</p> <p>8 was in plain view and you just felt it</p> <p>9 was an illegal search?</p> <p>10 A. I don't know what they did</p> <p>11 with that, you have to ask whomever.</p> <p>12 Q. Well, you filed a lawsuit</p> <p>13 against the trooper --</p> <p>14 A. Sure.</p> <p>15 Q. -- in relation to that,</p> <p>16 correct?</p> <p>17 A. Sure, absolutely.</p> <p>18 Q. Before you were arrested for</p> <p>19 possession of a concealed weapon on that</p> <p>20 occasion you were attempting to evade</p> <p>21 the trooper in your Trans Am because you</p> <p>22 were speeding, correct?</p> <p>23 A. False information. No</p> <p>24 charges of any evade or elude.</p> <p>25 Q. I'm not talking about</p>
Page 295	Page 297
<p>1 Q. Have you been read your</p> <p>2 Miranda rights?</p> <p>3 A. I may have.</p> <p>4 Q. On how many occasions do you</p> <p>5 recall being read your Miranda rights?</p> <p>6 MR. ROSSI: Continuing objection.</p> <p>7 A. I can't recall.</p> <p>8 Q. More than once?</p> <p>9 A. Possible.</p> <p>10 Q. One of those times you were</p> <p>11 read your Miranda rights, that was in</p> <p>12 1996 when you were arrested for carrying</p> <p>13 a concealed weapon?</p> <p>14 A. I didn't have anything,</p> <p>15 concealed weapon.</p> <p>16 Q. So you're saying none of the</p> <p>17 three knives that you had in your Trans</p> <p>18 Am were concealed at any point in time?</p> <p>19 A. Plain view.</p> <p>20 Q. All three of them?</p> <p>21 A. I'd have to look at the</p> <p>22 record.</p> <p>23 Q. Best recollection?</p> <p>24 MR. ROSSI: I hope the quality</p> <p>25 of these questions mean we're getting to</p>	<p>1 charges, sir, I'm asking about facts.</p> <p>2 A. False.</p> <p>3 Q. So you were not attempting</p> <p>4 to evade the police officer?</p> <p>5 A. No.</p> <p>6 Q. So as soon as he turned his</p> <p>7 lights on you pulled over and stopped?</p> <p>8 A. Sure.</p> <p>9 Q. Now, you were, as I said,</p> <p>10 charged and convicted for possession of</p> <p>11 a -- for carrying a concealed weapon and</p> <p>12 that was something you appealed in</p> <p>13 court, correct?</p> <p>14 A. Yeah, public record.</p> <p>15 Q. Have you been charged with</p> <p>16 any other crimes other than carrying a</p> <p>17 concealed weapon since you testified</p> <p>18 that you have been read your Miranda</p> <p>19 rights on more than one occasion?</p> <p>20 A. I haven't been convicted on</p> <p>21 anything, no.</p> <p>22 Q. I'm not asking about</p> <p>23 convictions, I said charged?</p> <p>24 A. It's possible.</p> <p>25 Q. What else have you been</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 298	Page 300
<p>1 charged with that you recall?</p> <p>2 A. You have to look at the</p> <p>3 public records, I really don't recall.</p> <p>4 Q. I actually don't have to</p> <p>5 look at them, I'm asking for your</p> <p>6 recollection.</p> <p>7 A. Oh, I don't remember what</p> <p>8 anything is. We're talking, what was it</p> <p>9 -- there has been a few things. Oh,</p> <p>10 open container.</p> <p>11 Q. Anything else?</p> <p>12 A. Let's see, underage</p> <p>13 something.</p> <p>14 Q. You were under age or you</p> <p>15 were with someone who was under age?</p> <p>16 A. I wasn't with -- let's see,</p> <p>17 possible.</p> <p>18 Q. The latter, that you were</p> <p>19 with someone under age?</p> <p>20 A. Under the age of 21, I</p> <p>21 believe so, yeah.</p> <p>22 Q. This is related to drinking</p> <p>23 and alcohol?</p> <p>24 A. Yeah, I wasn't drinking.</p> <p>25 Q. You were buying liquor for</p>	<p>1 underage charges what other charges have</p> <p>2 you been -- have you faced?</p> <p>3 A. I guess that's it.</p> <p>4 Q. Were you convicted of the</p> <p>5 charge relating to the underage</p> <p>6 circumstances?</p> <p>7 A. I haven't been convicted of</p> <p>8 anything, never.</p> <p>9 Q. Well, you were actually</p> <p>10 convicted of carrying a concealed weapon</p> <p>11 but you appealed that and they reversed</p> <p>12 the conviction, correct?</p> <p>13 A. The law says direct appeal,</p> <p>14 no conviction.</p> <p>15 Q. You've never filed for</p> <p>16 bankruptcy protection, is that right?</p> <p>17 A. No.</p> <p>18 Q. In addition to the lawsuit</p> <p>19 you filed against the trooper you filed</p> <p>20 two lawsuits against K-Mart, your former</p> <p>21 employer, right?</p> <p>22 A. I can't recall. It's</p> <p>23 possible. I believe one maybe, two or</p> <p>24 three. I can't recall. One, two or</p> <p>25 three. Maybe four.</p>
Page 299	Page 301
<p>1 somebody under the age of 21?</p> <p>2 A. No.</p> <p>3 Q. What is the relationship to</p> <p>4 underage?</p> <p>5 A. I have to see the document.</p> <p>6 I think that's what I recall what the</p> <p>7 charges were.</p> <p>8 Q. So you were charged with a</p> <p>9 crime but you don't recall what crime it</p> <p>10 was?</p> <p>11 A. It's in dispute.</p> <p>12 Q. Currently in dispute?</p> <p>13 A. I didn't say that.</p> <p>14 Q. So I'm trying to understand</p> <p>15 your answer. You said it is in</p> <p>16 dispute, you didn't say it was in</p> <p>17 dispute. So my question is, is it</p> <p>18 currently in dispute?</p> <p>19 A. Not to my knowledge.</p> <p>20 Q. What state were you in with</p> <p>21 regards to the underage charges?</p> <p>22 A. This state.</p> <p>23 Q. It was in Ohio?</p> <p>24 A. Yes.</p> <p>25 Q. Other than open container and</p>	<p>1 MR. ROSSI: Excuse me a second.</p> <p>2 (Discussion between witness and</p> <p>3 his counsel.)</p> <p>4 - - - - -</p> <p>5 (Thereupon, Deposition</p> <p>6 Exhibit-47 was marked for</p> <p>7 purposes of identification.)</p> <p>8 - - - - -</p> <p>9 Q. Handing you what's been</p> <p>10 marked Deposition Exhibit 47, it's a</p> <p>11 copy of an affidavit you filed in a</p> <p>12 lawsuit against the trooper, case number</p> <p>13 499 CV 1642, and turning to the second</p> <p>14 page of the document, is that your</p> <p>15 signature, sir?</p> <p>16 A. Yes.</p> <p>17 Q. And you were certifying under</p> <p>18 penalty of perjury that the information</p> <p>19 set forth in this affidavit is true and</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. Looking at paragraph 5, does</p> <p>23 that refresh your recollection that your</p> <p>24 third knife was concealed from view in a</p> <p>25 closed compartment between bucket seats?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 302	Page 304
<p>1 A. Okay, yeah. 2 - - - - - 3 (Thereupon, Deposition 4 Exhibit-48 was marked for 5 purposes of identification.) 6 - - - - - 7 Q. Mr. Rossi represented you in 8 a portion of that lawsuit, is that 9 right? 10 A. Yeah, Michael Rossi, Alan 11 Belkin, yes. 12 Q. Handing you what's been 13 marked Deposition Exhibit 48, a copy of 14 one of the actions you filed against 15 K-Mart, your former employer, case 16 number 01 CVF 282 in the Central 17 District Court of Trumbull County, Ohio. 18 This one is against Glen Wilson who was 19 your supervisor at K-Mart, is that 20 right? 21 A. He wasn't my supervisor, no. 22 Q. So he was a supervisor at 23 K-Mart? 24 A. Yes. 25 Q. Paragraph 4, "On October 19,</p>	<p>1 in connection with a clogged sink at 2 K-Mart? 3 A. Yeah. 4 Q. And what improper conduct did 5 Mr. Wilson purportedly maliciously 6 institute and maintain against you? 7 A. You have to ask him, I can't 8 recall. 9 Q. Actually, I don't. This is 10 your document that you drafted so what 11 did you mean by, quote, improper 12 conduct? 13 A. Well, false, wrong, 14 wrongfully. 15 Q. And what conduct were you 16 allegedly maliciously accused of? 17 MR. ROSSI: Object, irrelevant. 18 Q. Well, certainly it was 19 something you felt strongly about to 20 file a complaint in court over so what 21 improper conduct were you -- 22 MR. ROSSI: Objection, 23 irrelevant. Go ahead and continue the 24 deposition. 25 Q. What improper conduct were</p>
Page 303	Page 305
<p>1 2000 on the occasion of an investigatory 2 interview conducted by K-Mart human 3 resource officials, the Defendant, Glen 4 Wilson, was identified as the 5 responsible party who maliciously 6 instituted and maintained 'improper 7 conduct' allegations against the 8 Plaintiff without probable just cause 9 therefore." 10 You represented yourself at this 11 point against K-Mart, is that right? 12 A. Yeah. 13 Q. And that's your signature on 14 the second page? 15 A. Yes. 16 Q. What investigatory interview 17 are you referring to in paragraph 4? 18 A. Investigatory interview -- 19 investigatory interview. 20 Q. What was the subject of the 21 investigatory interview that you 22 participated in on October 19, 2000? 23 A. Something about a clogged 24 sink. 25 Q. So you were being interviewed</p>	<p>1 you accused of that led you to file 2 this complaint? 3 A. A clogged sink. 4 Q. So you just -- what, he 5 accused you of clogging the sink? 6 A. Yeah. 7 Q. With what? 8 A. I don't know. He said food. 9 Q. So a supervisor at K-Mart 10 accused you of clogging a sink and you 11 filed a lawsuit over it? 12 A. Yeah. 13 Q. And you filed a lawsuit 14 against Mr. Wilson specifically, not 15 K-Mart Corporation in this particular 16 instance, correct? 17 A. It appears so. 18 Q. And you in your demand 19 asserted compensatory damages in the sum 20 of \$7,000, exemplary damages in the sum 21 of \$7,000 as well as interest and other 22 costs, correct? 23 A. Yes. 24 Q. So you asserted at least a 25 \$14,000 recovery against an individual</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 306

1 who accused you of clogging a sink?
 2 A. Okay. Fair enough.
 3 Q. Well, am I right?
 4 A. Yes.
 5 Q. Is that right?
 6 A. Yeah.
 7 Q. Have you given testimony
 8 under oath at any other time other than
 9 today?
 10 A. What do you mean? Define.
 11 Q. Have you been placed under
 12 oath and given testimony at any other
 13 time other than today?
 14 A. Probably.
 15 Q. Probably?
 16 A. I would assume so, yeah.
 17 Q. I'm sorry, I couldn't hear
 18 you.
 19 A. I would say yes.
 20 Q. What other situation were you
 21 placed under oath and given testimony?
 22 A. I had a traffic ticket in
 23 93.
 24 Q. Any other times?
 25 A. Possibly. I can't recall.

Page 307

1 Maybe at the Industrial Commission. I
 2 really can't recall.
 3 Q. The traffic ticket in 93,
 4 since you said you were placed under
 5 oath and gave testimony, am I to assume
 6 correctly that you contested the ticket
 7 and went to court --
 8 A. Yes.
 9 Q. -- and that's why you were
 10 placed under oath?
 11 A. Yes.
 12 Q. What is your date of birth?
 13 [REDACTED]
 14 Q. Where were you born?
 15 A. Ohio.
 16 Q. Where in Ohio?
 17 A. Warren, Ohio.
 18 Q. Where were you raised?
 19 A. The same.
 20 Q. You're not currently married,
 21 correct?
 22 A. Correct.
 23 Q. Have you ever been married?
 24 A. No.
 25 Q. You have no children?

Page 308

1 A. Correct.
 2 Q. You attended two years of
 3 college at Kent State about 20 years
 4 ago?
 5 A. Sounds right.
 6 Q. You do not currently have a
 7 college degree?
 8 A. No.
 9 Q. What courses were you taking,
 10 what course of study were you taking at
 11 Kent State approximately 20 years ago?
 12 A. Undeclared.
 13 Q. What type of courses were
 14 you taking?
 15 A. Math, usual. I can't
 16 remember all the courses.
 17 Q. All required courses?
 18 A. Something like that, yeah.
 19 Q. Have you attended any formal
 20 training or educational programs other
 21 than Kent State?
 22 A. Not that I know of.
 23 Q. You recently applied for
 24 re-enrollment at Kent State?
 25 A. Yeah.

Page 309

1 Q. Have you started coursework
 2 back up at Kent State?
 3 A. No.
 4 Q. Why not?
 5 A. I don't know. No response.
 6 Q. So you submitted the
 7 application for undergraduate
 8 re-enrollment but did not hear anything
 9 from Kent State?
 10 A. Yeah.
 11 Q. Do you plan to pursue
 12 re-enrollment at Kent State?
 13 A. If I can.
 14 Q. What courses do you intend
 15 to take if you are re-enrolled at Kent
 16 State?
 17 A. I have to sit down and look
 18 and pick a couple and decide.
 19 Q. Do you intend to go
 20 full-time?
 21 A. Yeah, if I can.
 22 Q. Are you currently enrolled in
 23 any education or training program?
 24 A. No.
 25 Q. Other than Kent State do you



Cefaratti Group
 THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
 Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
 Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
 Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 310	Page 312
<p>1 have any plans to enroll in any 2 education or training program? 3 A. Depends upon any 4 opportunities that come up. 5 Q. Do you have a current 6 business license? 7 A. Not that I know of. 8 Q. Did you ever have a business 9 license? 10 A. I can't recall. 11 Q. You may have had a business 12 license? 13 A. I don't think, but not that 14 I know of. 15 Q. Did you have any business 16 licenses in connection with your work as 17 a self employed contractor? 18 A. No. 19 Q. And you've never served in 20 the military, is that right? 21 A. That's correct. 22 Q. Your current address is still 23 the 4143 Jeanette Drive, Warren, Ohio, 24 44484 address? 25 A. Yes.</p>	<p>1 name? 2 A. Rose Rudin. 3 Q. I'm sorry? 4 A. R U D I N. 5 Q. Do you pay any rent living 6 with your grandmother? 7 A. I don't have any money right 8 now to give any rent. 9 Q. Have you -- 10 MR. ROSSI: Say no. 11 A. No, no. 12 Q. Where did you live prior to 13 1989 when you moved into the Jeanette 14 Drive address? 15 A. With my parents. 16 Q. Had you completed high school 17 when you moved in with your grandmother? 18 A. Yes. 19 Q. Why did you move out of your 20 parents' house into your grandparents' 21 house -- grandmother's house, excuse me? 22 A. I think everybody moved in 23 there at that time. I can't recall. I 24 think we all did. My parents sold the 25 house, something like that. Years, I</p>
Page 311	Page 313
<p>1 Q. How long have you lived at 2 that address? 3 A. I can't recall. Since high 4 school. 5 Q. So since 1990? 6 A. 89, somewhere in there. 7 Q. Is that the -- whose house 8 is on this -- actually, strike the 9 question, please. Do you know, was that 10 house owned or rented? 11 A. It's got to be owned. 12 Q. Do you own the house? 13 A. No. 14 Q. Whose name is on the title? 15 A. I don't know. 16 Q. Do you know whose name is on 17 the mortgage? 18 A. I don't know. I don't think 19 there's any mortgage. 20 Q. Who lives there besides 21 yourself, your grandmother? 22 A. Yeah. 23 Q. Anyone else? 24 A. No. 25 Q. What's your grandmother's</p>	<p>1 can't recall. 2 Q. Have you ever experienced any 3 difficulties receiving mail at the 4 Jeanette Drive address? 5 A. Before -- before, yeah. 6 Q. Before what? 7 A. In the past, years ago. 8 Q. How many years ago? 9 A. I don't know, I wasn't 10 paying attention. I remember before we 11 had some problems years ago but I think 12 there was kids in the neighborhood 13 messing with stuff. I can't remember 14 how many years. 15 Q. Well, the next question I 16 was going to ask you is, do you know 17 why you were having difficulty receiving 18 mail at that address years ago? 19 A. Rowdy kids, possibly. 20 Q. Did you ever have any 21 difficulty receiving phone messages left 22 for you at the Jeanette Drive address? 23 A. What do you mean? 24 Q. Friend of yours ever say to 25 you, hey, I left you a message the</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 314	Page 316
<p>1 other day, did you get it, and you</p> <p>2 hadn't gotten it?</p> <p>3 A. Yeah, if my grandma erases a</p> <p>4 message or don't write it down, it's</p> <p>5 possible. She's 85.</p> <p>6 Q. Have you asked any current</p> <p>7 or former ABC employee if they would</p> <p>8 testify for you in this case?</p> <p>9 A. No.</p> <p>10 Q. Have you asked any current</p> <p>11 or former ABC employee if they would</p> <p>12 speak to your attorney in connection</p> <p>13 with this case?</p> <p>14 A. I think I sent a card to the</p> <p>15 union people. Other than that, no.</p> <p>16 Q. Is that to Justin that you</p> <p>17 sent the card?</p> <p>18 A. I believe it was.</p> <p>19 Q. And you asked Justin whether</p> <p>20 he would speak to Mr. Rossi?</p> <p>21 A. No. I just said -- I gave</p> <p>22 him the card for communication purposes.</p> <p>23 Q. You gave him Mr. Rossi's</p> <p>24 card?</p> <p>25 A. Yeah.</p>	<p>1 him at a gas station. I can't</p> <p>2 remember.</p> <p>3 Q. How about Ryan, that was</p> <p>4 August 11, 2010?</p> <p>5 A. Yeah.</p> <p>6 Q. And Bill, when was that?</p> <p>7 A. Same.</p> <p>8 Q. August 11, 2010?</p> <p>9 A. Yeah.</p> <p>10 Q. And Tony was also August 11,</p> <p>11 2010?</p> <p>12 A. Yeah. Yeah, Tony's mother</p> <p>13 passed away, I sent a card, I seen it</p> <p>14 in the paper. Other than that...</p> <p>15 Q. Have you talked about your</p> <p>16 legal action against ABC with Kevin?</p> <p>17 A. Not that I'm aware of.</p> <p>18 Grievance stuff.</p> <p>19 Q. What grievance stuff did you</p> <p>20 speak with Kevin about?</p> <p>21 A. I can't remember. He asked</p> <p>22 me -- I can't remember who asked who or</p> <p>23 how it came up but I said, well,</p> <p>24 grievance, grievance, and it was short</p> <p>25 because he was at a gas station.</p>
Page 315	Page 317
<p>1 Q. Do you know if Mr. -- strike</p> <p>2 the question, please. Do you know if</p> <p>3 Justin ever contacted Mr. Rossi?</p> <p>4 A. I don't know, you'd have to</p> <p>5 ask him.</p> <p>6 Q. Has any current or former</p> <p>7 ABC employee volunteered to testify for</p> <p>8 you in this case?</p> <p>9 A. Not that I know of, no.</p> <p>10 Q. Any current or former ABC</p> <p>11 employee volunteered to speak with your</p> <p>12 attorney?</p> <p>13 A. Not that I know of, no.</p> <p>14 Q. Have you communicated with</p> <p>15 any current or former ABC employee since</p> <p>16 your September 2009 layoff other than</p> <p>17 those we've discussed today?</p> <p>18 A. Kevin, that's about it.</p> <p>19 Then, let's see, Ryan, Bill DiPietro,</p> <p>20 Tony Nicastro, that was August 11th,</p> <p>21 2010 at the plant.</p> <p>22 Q. So you just said Kevin,</p> <p>23 Ryan, Bill and Tony, were those</p> <p>24 communications all on August 11th, 2010?</p> <p>25 A. No, no. Kevin, I ran into</p>	<p>1 Q. So the entire conversation</p> <p>2 was somebody saying grievance,</p> <p>3 grievance?</p> <p>4 A. I can't remember. I just --</p> <p>5 I run into him on more than one</p> <p>6 occasion and it's always at a gas</p> <p>7 station, different ones, just out of</p> <p>8 sheer coincidence. Same place, same</p> <p>9 time, here and there. I might have</p> <p>10 seen Rick Harvey somewhere one time too.</p> <p>11 Other than that...</p> <p>12 Q. Have you talked to Mr.</p> <p>13 Harvey about your lawsuit against ABC?</p> <p>14 A. No, I just say, hey, what's</p> <p>15 up.</p> <p>16 Q. Have you ever tape recorded</p> <p>17 any phone calls with a current or former</p> <p>18 ABC employee?</p> <p>19 A. What do you mean?</p> <p>20 Q. Have you ever tape recorded</p> <p>21 any phone calls with a current or former</p> <p>22 ABC employee?</p> <p>23 A. I don't think so, no.</p> <p>24 Q. Have you ever tape recorded</p> <p>25 any conversation with a current or</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 318	Page 320
<p>1 former ABC employee? 2 A. No. 3 - - - - - 4 (Thereupon, Deposition 5 Exhibit-49 was marked for 6 purposes of identification.) 7 - - - - - 8 Q. Deposition Exhibit 49, is 9 this your application for re-enrollment 10 at Kent State? 11 A. It appears to be. I don't 12 know if there's any other parts but fair 13 enough, yeah. 14 Q. And on the back, is that 15 your signature? 16 A. Yeah. 17 Q. And you signed this on or 18 about April 5th, 2011? 19 A. Yeah. 20 Q. Do you agree that during 21 your employment with ABC you never 22 worked 40 hours a week, 52 weeks a 23 year? 24 A. Excuse me, repeat. 25 Q. Sure. Do you agree that</p>	<p>1 A. Okay, yes. 2 Q. In 2008 you had been laid 3 off in January of 08 and you were 4 recalled in March of 08 and then worked 5 until January of 09 when you were laid 6 off again, correct? 7 A. Yes. 8 Q. And then in January of 09 9 you were recalled in June of 09 and 10 then you worked from June of 09 until 11 September of 09, correct? 12 A. Sounds right, yeah. 13 - - - - - 14 (Thereupon, Deposition 15 Exhibit-50 was marked for 16 purposes of identification.) 17 - - - - - 18 Q. Showing you what's been 19 marked Deposition Exhibit 50, I really 20 just want to have you tell me if that 21 is a true and accurate copy of your 22 2007 tax return that you submitted to 23 the governments of the United States and 24 of Ohio, respectively? Excuse me. 25 A. Appears to be.</p>
Page 319	Page 321
<p>1 during your employment with ABC you 2 never worked 40 hours a week, 52 weeks 3 a calendar year? 4 A. I worked there -- every week 5 is 40 hours a week. 6 Q. You did not work 52 weeks in 7 a calendar year, correct? 8 A. Continuous? Probably not, 9 no. 10 Q. Specifically in 2007 you 11 worked for approximately five months, 12 correct? 13 A. I'm not sure. If that's 14 what it is, so be it. 15 Q. And in 2008 you worked 16 approximately ten months, is that right? 17 A. I'm not sure. If that's 18 what it is. 19 Q. 2009 you worked approximately 20 nine months? 21 A. I don't know. If that's 22 what it is, that's fine. 23 Q. Well, in 2007 you were hired 24 in July of 07 and you were laid off in 25 January of 08, correct?</p>	<p>1 - - - - - 2 (Thereupon, Deposition 3 Exhibit-51 was marked for 4 purposes of identification.) 5 - - - - - 6 Q. 51, same question but are 7 these the tax returns you submitted to 8 the Federal government and State of Ohio 9 for the tax year 2008? 10 A. Appears to be, yeah. 11 Q. There was no W-2 nor form 12 1099 G attached to your 2008 tax return, 13 do you have those records for 2008? 14 A. I give you everything I had 15 so... 16 - - - - - 17 (Thereupon, Deposition 18 Exhibit-52 was marked for 19 purposes of identification.) 20 - - - - - 21 Q. Showing you what's been 22 marked Deposition Exhibit 52, same 23 question, but are these your tax returns 24 submitted to the Federal government and 25 the State of Ohio for tax year 2009?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 322	Page 324
<p>1 A. Appears to be.</p> <p>2 Q. I would like to go back to</p> <p>3 Deposition Exhibit 2, please.</p> <p>4 A. 2, got it.</p> <p>5 Q. What information do you</p> <p>6 believe that Miss Fisher has to support</p> <p>7 your claims in this case?</p> <p>8 A. Payroll.</p> <p>9 Q. With regards to what that</p> <p>10 supports your claims in this case?</p> <p>11 A. Payroll records.</p> <p>12 Q. I guess what about the</p> <p>13 payroll records that you believe Miss</p> <p>14 Fisher has knowledge of that supports</p> <p>15 the claims in your case?</p> <p>16 A. She's the administrator of --</p> <p>17 I requested information or something on</p> <p>18 the one letter so she's the person in</p> <p>19 charge for contact for those records.</p> <p>20 Q. You're referring to, I think</p> <p>21 it was a 2008 correspondence that you</p> <p>22 sent to Miss Fisher asking her to check</p> <p>23 into your wages?</p> <p>24 A. They deal with health care</p> <p>25 benefits, union dues, that type stuff.</p>	<p>1 MR. ROSSI: Colello.</p> <p>2 A. Yes.</p> <p>3 Q. Do you know whether you're</p> <p>4 planning on deposing Mr. Colello?</p> <p>5 A. It's up to my legal counsel,</p> <p>6 I trust him.</p> <p>7 Q. What information do you</p> <p>8 believe Mr. Colello has that would</p> <p>9 support your case such that you'd want</p> <p>10 to depose him?</p> <p>11 A. I don't know, we have to</p> <p>12 find out.</p> <p>13 Q. How about Mr. Averell,</p> <p>14 A V E R E L L ?</p> <p>15 A. Same answer. I don't know,</p> <p>16 we have to find out.</p> <p>17 Q. Mr. Warner, what information</p> <p>18 do you believe Mr. Warner has to support</p> <p>19 your claims in this action?</p> <p>20 A. OSHA information. And other</p> <p>21 than that I don't know, I have to find</p> <p>22 out.</p> <p>23 Q. When you say OSHA</p> <p>24 information, are you referring to</p> <p>25 something other than what we've</p>
Page 323	Page 325
<p>1 Q. So what specific information</p> <p>2 does Miss Fisher have that you claim</p> <p>3 supports your case?</p> <p>4 A. I don't know, we have to</p> <p>5 find out.</p> <p>6 Q. How about Mr. Bobal, what</p> <p>7 specific information does Mr. Bobal have</p> <p>8 that you claim supports your case?</p> <p>9 A. I don't know, we have to</p> <p>10 find out.</p> <p>11 Q. How about Mr. Taraba, same</p> <p>12 question?</p> <p>13 A. Same answer. I don't know,</p> <p>14 we have to find out.</p> <p>15 Q. Mr. Stimmel?</p> <p>16 A. Same thing. I don't know,</p> <p>17 we have to find out.</p> <p>18 Q. How about Mr. Colello,</p> <p>19 C O L E L L O ?</p> <p>20 A. I don't know, we have to</p> <p>21 find out.</p> <p>22 Q. Are you planning on deposing</p> <p>23 Mr. -- how do you pronounce his name?</p> <p>24 A. Who?</p> <p>25 Q. Colello?</p>	<p>1 discussed today?</p> <p>2 A. I don't know, we have to</p> <p>3 find out.</p> <p>4 Q. You mentioned someone named</p> <p>5 Janell at OSHA in the beginning of the</p> <p>6 deposition today?</p> <p>7 A. Yes.</p> <p>8 Q. What role did Janell play in</p> <p>9 the OSHA investigation?</p> <p>10 A. Just discussions, she said</p> <p>11 they're going to inspect.</p> <p>12 Q. What year was Janell involved</p> <p>13 with regards to issues you raised to</p> <p>14 OSHA?</p> <p>15 A. August 20th, 2010.</p> <p>16 Q. Is this an in-person</p> <p>17 conversation with Janell?</p> <p>18 A. Telephone.</p> <p>19 Q. Approximately how long was</p> <p>20 the telephone conversation?</p> <p>21 A. I can't recall.</p> <p>22 Q. And did she call you or did</p> <p>23 you call her?</p> <p>24 A. She called me.</p> <p>25 Q. And best as you can recall</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787 www.cefgroup.com fax:216.687.0973
Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161
Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 326	Page 328
<p>1 please describe that conversation. 2 A. Talked about the inspection 3 and went over the fork trucks, towmotors 4 unsafe, no horn, no lights, oil leaking, 5 fluid leaks, stall, stuff like that. 6 And I says, well, on the inspection -- 7 excuse me, I says, since you're on the 8 inspection you might as well check the 9 fire and tornado alarms on inspection. 10 That's about it. It presents an 11 opportunity. 12 Q. And what did Miss -- do you 13 recall Janell's last name? 14 A. I don't know, she said 15 Janell. 16 Q. What did Janell respond, if 17 anything, to your statement? 18 A. Just said that they're going 19 to inspect. 20 Q. And the fire and tornado 21 alarms that you just referenced, that 22 does not form the basis for your claim 23 against ABC, correct? 24 A. No. I just said with the 25 inspection, I says, you have an</p>	<p>1 Q. What information does Mr. 2 Rowbottom have that supports your claims 3 in this case? 4 A. I don't know, we have to 5 find out. 6 Q. How about Mr. Moyer? 7 A. I don't know, I have to find 8 out. 9 Q. Mr. Cozart? 10 A. I don't know, I have to find 11 out. 12 Q. Mr. DiPietro? 13 A. I don't know, I have to find 14 out. 15 Q. Mr. Nicastro? 16 A. Same. 17 Q. Let's pull out Deposition 18 Exhibit 3, please. 19 A. Oh, there it is. 20 Q. By the way, did you file a 21 tax return for 2010? 22 A. I believe so. Yes. 23 Q. We don't have a copy of 24 that. Flipping to -- there's some 25 handwritten, three handwritten, appears</p>
Page 327	Page 329
<p>1 opportunity to check that because I 2 don't remember us having any fire drills 3 or tornado drills as long as I've been 4 there. 5 Q. You said the conversation you 6 had with Mr. Warner, that was August 26, 7 2010? 8 A. Yes. 9 Q. Did you have any other 10 telephone conversations with Mr. Warner 11 other than that August 26, 2010 12 conversation? 13 A. That's it. 14 Q. Have you told me everything 15 that you and Mr. Warner talked about 16 during the August 26, 2010 conversation? 17 A. Yeah, that covered it. 18 Q. Flipping to the last page of 19 Deposition Exhibit 2, there are some 20 additional individuals identified as 21 having information relating to your 22 claims in this case. And you list Mr. 23 Rowbottom, Mr. Moyer, Mr. Cozart, Mr. 24 DiPietro and Mr. Nicastro? 25 A. Yes.</p>	<p>1 to be, notebook pages towards the end of 2 Deposition Exhibit 3. 3 A. Okay. You said three pages 4 at the end? 5 Q. They look like this, would 6 be your handwritten notes? 7 A. Okay, yes. 8 Q. I think there's three pages? 9 A. Okay. 10 Q. Do these three pages 11 represent all of the employers with whom 12 you have sought employment since being 13 laid off from ABC Company? 14 A. As of what date? 15 Q. Whenever you started looking. 16 A. I got a lot more. 17 Q. Do you have any records 18 pertaining to your job search efforts 19 other than these three pages? 20 A. I should have, yeah. 21 Q. What other type of job 22 search records do you have? 23 A. Just -- just like this. 24 Q. So more handwritten pages of 25 companies that you may have contacted</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 330	Page 332
<p>1 regarding employment?</p> <p>2 A. Yeah. I got maybe a</p> <p>3 computer printout, postcards.</p> <p>4 Q. Did you provide the computer</p> <p>5 printout to your attorney?</p> <p>6 A. Yeah, he should have them.</p> <p>7 Q. And the postcards to your</p> <p>8 attorney?</p> <p>9 A. I should have a copy of it.</p> <p>10 Q. You should or he should?</p> <p>11 A. Both of you guys should,</p> <p>12 everybody should.</p> <p>13 MR. ROSSI: I don't have anything</p> <p>14 you don't have. Don't start that again.</p> <p>15 Q. Well, I don't have the 2010</p> <p>16 tax returns. Since you asked the</p> <p>17 question, when did you start your</p> <p>18 efforts to secure new employment?</p> <p>19 A. I can't recall.</p> <p>20 Q. Approximate month and year?</p> <p>21 A. I've always been looking for</p> <p>22 employment.</p> <p>23 Q. Even while you were working</p> <p>24 for ABC?</p> <p>25 A. Yeah, always. Even in</p>	<p>1 A. There are so many companies,</p> <p>2 including these, yes.</p> <p>3 Q. In what way did you signal</p> <p>4 your interest to the companies that you</p> <p>5 have listed in Deposition Exhibit 3?</p> <p>6 A. Regular mail.</p> <p>7 Q. Is that by submitting an</p> <p>8 application, resume?</p> <p>9 A. Resume.</p> <p>10 Q. And how did you find the</p> <p>11 companies that you've listed in</p> <p>12 Deposition Exhibit 3?</p> <p>13 A. Everywhere, computer, books,</p> <p>14 just whatever I found.</p> <p>15 Q. Did you actually submit</p> <p>16 applications for any of these companies</p> <p>17 listed in Deposition Exhibit 3?</p> <p>18 A. No, resume.</p> <p>19 Q. Were you responding to</p> <p>20 solicitations for resumes or</p> <p>21 applications to any of these companies</p> <p>22 listed in Deposition Exhibit 3?</p> <p>23 A. Say that again, please.</p> <p>24 Q. Were you responding to</p> <p>25 solicitations for applications or</p>
Page 331	Page 333
<p>1 between layoffs, I always look, you</p> <p>2 always see what's out there.</p> <p>3 Q. When were you actively</p> <p>4 searching for employment after your</p> <p>5 September of 09 layoff?</p> <p>6 A. I'm always actively searching</p> <p>7 for employment so every time all the</p> <p>8 time, continuing.</p> <p>9 Q. These companies that you've</p> <p>10 listed in Deposition Exhibit 3 --</p> <p>11 A. Yeah.</p> <p>12 Q. -- when did you start</p> <p>13 searching for employment with these</p> <p>14 companies?</p> <p>15 A. These companies have to be</p> <p>16 within this time period of permanent</p> <p>17 layoff or somewhere in there.</p> <p>18 Q. So you started -- your</p> <p>19 permanent layoff you believe was October</p> <p>20 15th, 2010, correct?</p> <p>21 A. Okay.</p> <p>22 Q. And are you saying that</p> <p>23 after that date you started looking for</p> <p>24 employment with the companies you have</p> <p>25 listed?</p>	<p>1 resumes as it relates to any of these</p> <p>2 companies you've listed in Deposition</p> <p>3 Exhibit 3 or were you cold calling, in</p> <p>4 other words?</p> <p>5 A. Yeah, not these, no. Just</p> <p>6 sending them out.</p> <p>7 Q. So you didn't know one way</p> <p>8 or the other whether these companies</p> <p>9 were hiring?</p> <p>10 A. I have no idea.</p> <p>11 Q. Have you interviewed for any</p> <p>12 jobs, we'll say, since October 15, 2010?</p> <p>13 A. No call, nobody called me.</p> <p>14 Q. Did you receive any offers</p> <p>15 of employment since October 15, 2010?</p> <p>16 A. Nobody called me.</p> <p>17 Q. Has any company ever informed</p> <p>18 you or gotten back to you about why</p> <p>19 they were not considering you for a</p> <p>20 position?</p> <p>21 A. I had one before says don't</p> <p>22 meet our criteria or something, I can't</p> <p>23 remember what their exact words are.</p> <p>24 Q. Do you recall what company</p> <p>25 that was?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 334	Page 336
<p>1 A. I don't remember. PSK, TSK, 2 I can't recall. All I remember it was 3 in Brookfield, that's all I can 4 remember, Brookfield, Ohio. 5 Q. Approximately how many hours 6 a week do you spend looking for 7 employment? 8 A. Depends on the time I have 9 available. 10 Q. Well, when you say the time 11 you have available, what is filling your 12 time such that you may not have time to 13 look for employment? 14 A. I might be on the computer 15 for hours, maybe minutes, just depends. 16 Q. So what is filling your time 17 that you may only have a few minutes to 18 look for employment? 19 A. It varies, each day is 20 different. 21 Q. So what is filling your time 22 such that you only have a few minutes 23 to search for employment on some days? 24 A. What do you mean filling 25 time?</p>	<p>1 something, share information. 2 Q. On average then how often or 3 how many hours a week would you say 4 you're looking for employment? 5 A. It's hard to say, it varies. 6 Q. An hour a week? 7 A. Probably longer than that. 8 Q. Two hours a week? 9 A. Sometimes a day I'm looking 10 for two hours. 11 Q. So I understand it's an 12 average, how many hours a week are you 13 searching for employment? 14 A. I guess you could say an 15 hour a day. 16 Q. Is that just Monday through 17 Friday? 18 A. Yeah, Monday through Friday. 19 A Sunday, Saturday, Sundays, sometimes 20 Saturday, sometimes. Usually never on a 21 Sunday. 22 Q. So on average you're looking 23 for new employment about five hours a 24 week on average? 25 A. That will work. I look, at</p>
Page 335	Page 337
<p>1 Q. What are you doing other 2 than looking for work? 3 A. Available for computers. 4 Q. I'm sorry? 5 A. The availabilities of 6 computers and other resources, libraries 7 or drive around, just depends. 8 Q. When you say availability for 9 computers, is that because you don't 10 have a computer at your house? 11 A. Yeah, I don't have a 12 computer, right. 13 Q. So you go to the library? 14 A. Yeah. 15 Q. Anywhere else you go to use 16 the computer? 17 A. That's it, libraries. 18 Q. So still trying to 19 understand, are you on the computer when 20 the library is open? 21 A. I use computers wherever I'm 22 at, my friends, my sister, libraries. I 23 don't limit it to anything. Whatever, 24 if somebody got a computer out, hey, let 25 me check it out. If they see</p>	<p>1 least. 2 Q. Is there any period of time 3 since October 15, 2010 that you've 4 suspended your efforts to look for a 5 job? 6 A. I'm always looking, no. 7 Q. Has there been any period of 8 time since October 15, 2010 that you 9 have been unable to work for any reason? 10 A. None whatsoever. 11 Q. Have you been self employed 12 at any time since September of 09? 13 A. No. 14 Q. Do you have health insurance 15 now? 16 A. What do you mean? 17 Q. Well, I think you said you 18 elected COBRA for dental only, correct? 19 A. That's correct. 20 Q. So do you have medical 21 insurance now? 22 A. No. 23 Q. The Deposition Exhibit Number 24 4, the portion that contains your 25 handwritten notes, I think it's the</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 338	Page 340
<p>1 second document in the clipped packet. 2 A. This is 3, close here, 2, 1, 3 1, 2, 3. 4 MR. ROSSI: Here, use mine. 5 A. Oh, here it is. 6 MR. ROSSI: How much longer do 7 you have? 8 MS. MCARDLE: Not much. 9 MR. ROSSI: What does that mean 10 quantitatively speaking? 11 MS. MCARDLE: Probably about 15 12 minutes, how's that, but I'm not going 13 to promise in case something comes up. 14 MR. ROSSI: That's okay. 15 Q. Mr. Potts, in the handwritten 16 notes that you wrote on the one portion 17 of Deposition Exhibit 4, I think it's 18 the second clipped packet. 19 A. Okay. 20 Q. In writing those notes you 21 were intending to impart true and 22 accurate information to the reader, is 23 that? 24 A. To what reader, what do 25 you --</p>	<p>1 A. Today. 2 Q. So no other time other than 3 today did you meet with Mr. Rossi to 4 prepare for your deposition? 5 A. This is it. 6 Q. Approximately how long did 7 you spend with Mr. Rossi before your 8 deposition? 9 A. How long was the drive? 10 Q. About 40 minutes? 11 A. That's it. 12 Q. And during that time you 13 didn't review any documentation -- 14 A. No. 15 Q. -- to prepare? Other than 16 what we've talked about today is there 17 any other fact on which you rely to 18 support your whistleblower claim? 19 A. What do you mean? 20 Q. Other than what we've talked 21 about today -- 22 A. This is it, everything. 23 Q. You told me everything that 24 supports your whistleblower claim? 25 A. Yeah, you got everything.</p>
Page 339	Page 341
<p>1 Q. To whoever is reading them. 2 A. Whoever is reading what? 3 Q. It's a pretty basic question. 4 A. Oh, yeah, yeah, yeah, sure. 5 Q. You were intending to provide 6 honest answers, correct? 7 A. Yeah. 8 Q. So, for example, page 2, 9 number 7, you wrote oral notice in-house 10 written report, none in my care? 11 A. Yeah. 12 Q. You were intending to impart 13 that you had no copies of any in-house 14 written report, correct? 15 A. Wrote them down and that's 16 that. 17 Q. Did you review any documents 18 in preparation for your deposition 19 today? 20 A. No. 21 Q. Did you meet with your 22 attorney in preparation for your 23 deposition today? 24 A. Today. 25 Q. I'm sorry?</p>	<p>1 Q. You told me everything that 2 supports your COBRA notice claim? 3 A. You got everything I got. 4 Q. Looking back on things is 5 there anything you would have done 6 different during your employment with 7 ABC? 8 MR. ROSSI: Objection, relevance. 9 Go ahead. 10 A. It's hard to say, you know, 11 after the fact of everything you always 12 think what if, what if, what if, you 13 know. But what if, you can't change 14 nothing, you can't -- you know, 15 tomorrow, the next day, driving home, I 16 should have turned left, should have 17 turned right, can't take it back. 18 Q. Well, I understand you can't 19 take it back but my question is, looking 20 back on things is there anything you 21 would have done differently during your 22 employment with ABC? 23 A. Probably would be. 24 Q. What would you have done 25 differently?</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 342	Page 344
<p>1 A. Everything.</p> <p>2 Q. Such as what?</p> <p>3 A. Depends on everything, would</p> <p>4 do things differently.</p> <p>5 Q. I'm sorry?</p> <p>6 A. Depending on any certain</p> <p>7 situation, anything, knowing now,</p> <p>8 experiencing now, obviously if I study</p> <p>9 this material, you know, I learned this</p> <p>10 studying this, reading the papers after</p> <p>11 the fact, of course I would do things</p> <p>12 different after reading this.</p> <p>13 Q. And can you identify for me</p> <p>14 something that you said of course you</p> <p>15 would do differently after reading this?</p> <p>16 A. No, just generalities.</p> <p>17 Q. Looking back on things is</p> <p>18 there anything you would have done</p> <p>19 differently during the time period of</p> <p>20 September of 09 through October 15th of</p> <p>21 2010?</p> <p>22 A. Probably.</p> <p>23 Q. Such as what?</p> <p>24 A. I don't know.</p> <p>25 Q. Well, you have a feeling</p>	<p>1 just -- I'd go do something different.</p> <p>2 MS. MCARDLE: No further</p> <p>3 questions.</p> <p>4 MR. ROSSI: Waive signature.</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 343	Page 345
<p>1 that you would have done something</p> <p>2 differently either during your</p> <p>3 employment or during that time period I</p> <p>4 just said, so there must be something</p> <p>5 prompting that feeling. What is</p> <p>6 prompting that feeling that you would</p> <p>7 have done --</p> <p>8 A. Be friends --</p> <p>9 Q. Hold on -- something</p> <p>10 differently? Go ahead. I have to</p> <p>11 finish my question, that was one of the</p> <p>12 ground rules.</p> <p>13 A. Sure, sure, sure, I'm sorry.</p> <p>14 This is kind of new to me or whatever,</p> <p>15 so I'd probably become friends with the</p> <p>16 managers.</p> <p>17 Q. Anything else?</p> <p>18 A. Buy them dinners like the</p> <p>19 other people do, participate in their</p> <p>20 bowlings and other social events.</p> <p>21 Q. Do you feel that the fact</p> <p>22 you didn't participate somehow affected</p> <p>23 your employment?</p> <p>24 A. I didn't say that. I said</p> <p>25 -- you asked do something different, I</p>	<p>1 CERTIFICATE</p> <p>2</p> <p>3 State of Ohio) SS.:</p> <p>4 County of Cuyahoga.)</p> <p>5 I, Steven H. Henschel, a Notary</p> <p>6 Public within and for the State of Ohio,</p> <p>7 duly commissioned and qualified, do</p> <p>8 hereby certify that the within named</p> <p>9 witness, was duly sworn to testify the</p> <p>10 truth, the whole truth and nothing but</p> <p>11 the truth in the cause aforesaid; that</p> <p>12 the testimony then given by the witness</p> <p>13 was by me reduced to stenotypy in the</p> <p>14 presence of said witness; afterwards</p> <p>15 transcribed, and that the foregoing is a</p> <p>16 true and correct transcription of the</p> <p>17 testimony so given by the witness.</p> <p>18 I do further certify that this</p> <p>19 deposition was taken at the time and</p> <p>20 place in the foregoing caption</p> <p>21 specified.</p> <p>22 I do further certify that I am</p> <p>23 not a relative, counsel or attorney for</p> <p>24 either party, or otherwise interested in</p> <p>25 the event of this action.</p>



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

DEPOSITION OF ROBERT A. POTTS

Page 346

1 I am not, nor is the court
2 reporting firm with which I am
3 affiliated, under a contract as defined
4 in Civil Rule 28 (D).

5 IN WITNESS WHEREOF, I have
6 hereunto set my hand this day of
7 , 2011.

8
9
10
11
12

13 Steven H. Henschel, Notary Public
14 within and for the State of Ohio

15
16
17
18

18 My commission expires April 22, 2013.

19
20
21
22
23
24
25



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

A	275:21 276:7	160:23 226:7	activity 81:16	345:11
abated 99:19	276:24 277:6	241:15 280:6	81:19	AFTERNOON...
ABC 3:20 4:5	283:9,16	281:16,20	actual 57:20	245:1
22:4,13,22	314:7,11	320:21 338:22	282:10	age 3:1 298:14
46:17 47:8	315:7,10,15	accurately 77:6	Adams 100:24	298:15,19,20
53:16,23 54:3	316:16 317:13	83:24 132:3,9	adding 21:14	299:1
65:13,13 82:4	317:18,22	241:18	addition 40:9	agency 24:16
82:10,19,24	318:1,21	accused	145:12 151:3	24:24 81:1
83:4 84:1 85:1	319:1 326:23	304:16 305:1	300:18	83:4 88:3
85:3,7,17 86:6	329:13 330:24	305:5,10	additional	134:13,15
86:22 87:23	341:7,22	306:1	21:14 121:3,4	agent 24:16,17
88:14 90:25	ABC's 266:7	achieve 151:20	121:22 240:20	24:18,19
91:3 94:16	ability 145:23	achieved 152:4	241:5 327:20	31:16 57:20
96:11 97:4	able 6:5 8:8	acknowledge	address 93:8	57:20 102:1
127:16,23	135:1,7 210:1	80:21 122:22	232:8 234:1	183:2 187:15
128:2,10,18	absence	acknowledge...	258:7 259:21	275:24
136:24,24,25	180:22 184:7	168:21	261:2 310:22	agents 101:16
138:14 141:5	absolutely	acknowledges	310:24 311:2	124:9 177:9
141:9 142:4	20:24 27:11	217:8 237:18	312:14 313:4	273:25
142:20 143:21	58:16 79:24	acknowledg...	313:18,22	ago 3:11 38:9
148:5,23	136:10 200:16	168:1	addressed 33:6	77:12 120:7
149:17 150:14	226:10 227:18	acronym	43:14 65:18	308:4,11
151:11 152:25	229:7 296:17	161:11	80:19 89:20	313:7,8,11,18
153:13,22	accept 81:22	act 22:20 81:12	131:18 175:25	agree 83:19
154:6,8	111:3 240:20	274:5 278:16	181:11 258:6	88:21 89:24
155:24 158:4	241:7	278:17,18	259:20	99:18 100:9
158:12 161:2	acceptance	acting 32:13	Adjustment	130:22 135:23
164:22,25	240:14 246:21	35:16 38:18	278:17,18	148:11 152:23
167:2 170:20	accepted 246:9	39:14 42:18	Administration	159:8 224:11
170:20 173:1	248:11	248:23 249:7	84:11 88:18	224:16 228:1
173:11,20	accident 120:3	249:11,15	administrative	229:8 230:3,9
196:25 198:19	accompanying	250:3,8,22	129:17	233:4 289:10
200:20 217:18	287:6	action 22:13,22	administrator	318:20,25
220:21 221:1	accomplished	81:17,24 82:4	128:19 322:16	agreed 140:2
221:6,11	202:23 203:2	82:11 84:13	adopted 45:23	150:25
245:9 247:21	account 19:23	96:10 97:4	advance 164:10	agreement
248:24 250:23	187:25 188:6	163:10 236:6	advice 21:19	44:23 45:7
253:4 254:8	188:8	255:17 316:16	advised 29:25	46:5 92:5 93:5
254:25 255:2	accountability	324:19 345:25	99:7 169:10	93:24 94:18
265:14,20,24	261:24 270:14	actions 22:4	affidavit 268:17	94:24 120:10
266:16,22,25	accounting	140:22 302:14	268:20 286:9	136:5,12
268:4,25	262:3 270:16	active 71:15,16	287:7 301:11	138:5 139:17
269:8 271:16	accurate 11:3	257:14	301:19	139:21 144:5
272:15 274:19	13:24 56:8	actively 71:13	affiliated 346:3	152:2,18
	70:1 160:12	331:3,6	aforesaid	154:22 215:19



Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

216:13,19 223:22 227:2 245:18 279:7 279:16 ahead 48:5 58:25 86:16 158:6 208:13 220:4 247:1 285:7 304:23 341:9 343:10 aka 1:11,12 100:22 101:8 101:9 Alan 302:10 alarms 326:9 326:21 alcohol 298:23 allegations 303:7 alleged 81:24 92:12 97:13 97:19 141:20 142:2 allegedly 304:16 allow 151:16,19 221:25 222:18 223:16 allowed 146:25 152:8 alluded 248:17 alluding 145:12 amended 7:22 7:23 8:10 265:11 268:2 271:18 275:6 275:13,15,17 275:19 amendment 275:8 American 1:10 3:13,18,25 7:25 8:12 12:15,23 15:7 16:23 17:1,7,9	17:24 18:5,14 19:1,7,19 20:4 20:8 21:10,15 21:23 25:11 25:17 28:25 29:5 35:19 43:2 50:24 59:6 60:9 67:25 83:18 84:9,12 99:6 100:12,20 101:7 106:21 274:1 amount 196:2 242:24 261:7 amounted 255:9 angrily 104:5 angry 191:2 199:23 annual 199:6 199:14 201:23 202:1,16 213:10 216:24 227:22 236:19 236:20 238:9 246:18 247:10 247:13,19,22 247:24 249:18 267:8 Anselmo 9:5,6 answer 5:10,11 5:22 6:25 8:8 10:2,21 29:3,9 44:25 45:3 47:10 57:15 160:15 169:22 201:2 214:10 227:3 235:11 235:14 236:10 245:25 246:20 248:5 252:4 284:20,22,23 285:1 290:6 294:20 299:15	323:13 324:15 answered 10:9 85:21 116:1 answering 5:18 5:21 101:2 116:18,22 answers 5:6 7:5 12:21 108:10 200:20 247:7 339:6 Anthony 4:12 anticipate 21:14 anybody 57:13 91:11,12 92:23 173:25 195:12 253:16 254:8 288:24 anymore 106:21 243:20 apart 62:1 apologize 58:23 69:18 130:19 201:4 238:19 apparently 223:8 appeal 300:13 appealed 297:12 300:11 appear 11:12 12:9 219:18 285:8 appearance 174:17,20,23 191:1 APPEARANC... 2:1 appeared 35:2 35:4 appears 13:1 13:11,17 43:13 44:7 60:12,21 61:5 61:7,18 62:2	64:5,7 65:14 65:16,23 83:15 98:17 98:23 131:16 132:18 136:3 139:2 155:23 160:3,13,24 167:15,21 179:19 185:9 185:15 197:15 205:6 258:4 258:15 261:4 261:9 271:8 280:25 287:12 287:15 291:13 291:18,22 293:16,18 305:17 318:11 320:25 321:10 322:1 328:25 applicable 279:15 applicant 162:20 application 160:18,21,22 162:18 163:6 163:8,15,18 163:22 167:14 222:13 237:7 281:1,25 282:7,8,10,16 282:23 283:8 283:16 287:10 287:20 288:11 289:12 309:7 318:9 332:8 applications 159:23 332:16 332:21,25 applied 308:23 apply 134:21 135:1,2,7 146:10 147:14 appreciate	233:16 approached 35:14 approaching 72:6 appropriate 6:4 84:13 Approximate 330:20 approximately 36:17,22 38:24 72:24 158:14 308:11 319:11,16,19 325:19 334:5 340:6 April 139:7 179:21 184:10 184:19 252:10 252:15 318:18 346:18 area 85:12 190:4 argue 200:24 arguing 229:25 argument 203:8 205:25 285:1 arranged 240:21 arrangements 174:16 arrest 294:22 294:23 arrested 294:17 295:12 296:18 arriving 205:12 Article 44:4,11 45:16,20 137:4 138:22 139:16 140:1 141:11 142:21 143:22 150:14 150:22 153:14 153:23 155:10 aside 275:20
---	---	---	---	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

276:3 asked 20:17 69:16 89:17 89:18 207:4 219:6 232:14 238:5 245:22 254:23,24 255:6 258:18 285:14 291:24 314:6,10,19 316:21,22 330:16 343:25 asking 4:3 5:17 6:8 45:2,3 47:5 54:24 55:5,8 56:7 59:11 63:24 64:6,7 76:5 83:23 85:23 87:7 101:3 103:11 108:4 108:12,16 128:7 216:7 219:3 223:1,2 229:4 231:8 231:11 269:23 290:16 297:1 297:22 298:5 322:22 asks 201:3 assert 103:24 172:21 264:8 asserted 20:3,7 21:3,4,10,22 131:2 265:13 305:19,24 asserting 63:18 105:14 272:13 282:14 284:10 285:2 290:8 assertion 102:11 assigned 142:23 158:18 194:2,14,22	202:17 assignment 292:1,2,5,11 292:16 assist 266:2 assistance 260:12 assistant 58:20 85:11 associate 58:22 Associates 128:22 assume 6:18 20:19 29:8,14 30:10 35:21 46:12 47:17 54:13 55:22 92:14 130:7 176:24 210:10 262:16 306:16 307:5 assumed 92:17 242:24 assuming 15:18 29:22 30:3 31:18 46:20 47:6 53:20 54:2,8 56:2 57:1 59:1 107:12 165:24 166:3 195:9 195:10 assumption 30:8 55:17 58:2,8 59:12 59:13 109:2 109:10 195:1 attach 205:18 attached 208:18 258:8 261:5 292:18 321:12 attachment 14:24 15:1	89:20 90:3 98:16 attempt 218:20 attempted 265:25 attempting 266:9,13 296:20 297:3 attempts 234:12 attend 165:22 165:23 240:22 attended 165:9 165:25 166:4 196:24 308:2 308:19 attending 166:11 attention 43:24 45:12 78:17 249:18 313:10 attorney 4:22 10:7 11:1 15:15,20,25 21:18 129:2 161:10,20 172:21 252:11 253:12 314:12 315:12 330:5 330:8 339:22 345:23 audible 6:2 August 26:6,19 28:1,5,21 32:14 34:2,8 34:12,16,20 35:1 37:5,9 38:4,11,23 40:4 42:10,14 43:14 44:2 51:6,19 52:3,8 52:12 53:15 53:21 62:20 63:3,21,23 64:3 65:15	68:4,5,19 70:14,18,20 71:7,14,23 72:6,11,23 73:5,9,24 74:3 74:14,20 75:7 75:14 76:6,16 77:8,14 78:4 78:10 79:5,14 79:23 80:18 81:5 85:2,9,18 86:2,9 87:11 87:19 88:10 90:18 91:16 91:20,24 95:5 95:11 96:12 96:15 97:5,22 98:1,24 112:1 113:4 132:21 133:1,14 134:7 193:5 195:9 315:20 315:24 316:4 316:8,10 325:15 327:6 327:11,16 authenticity 286:10 287:8 authorities 25:8 25:9 authority 29:13 29:17,23 30:4 30:7,12 31:9 38:20 43:4 47:16,25 49:8 49:11,15 54:12,17,21 55:1,14,18,20 55:23 56:2,5,9 57:10,14 58:10 59:7 134:19 168:8 authorized 226:19 availabilities	335:5 availability 335:8 available 92:6 215:18 235:14 235:23 334:9 334:11 335:3 average 336:2 336:12,22,24 Averell 324:13 avoid 217:11 aware 34:13 37:11 38:13 118:15 126:11 173:12,15,20 174:2 221:15 234:22 235:1 316:17 a.m 1:18 <hr/> B B 26:24 51:8,8 83:18 120:23 179:23 back 10:13 26:10 59:9 77:11 90:7 93:20 96:3 100:15 109:1 115:1,4,5 128:25 130:2 130:14 142:5 155:22 174:18 179:9 180:8 180:24 186:8 207:23 231:23 247:9 249:23 253:13 262:5 266:3 267:8 270:12 309:2 318:14 322:2 333:18 341:4 341:17,19,20 342:17 backdated
---	--	---	--	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

243:22 250:16 264:8 backdating 263:12,15,20 263:20,25 264:3,5 backing 200:4 bad 78:20 104:3 105:9 110:2 119:25 121:18 256:17 257:2 Baker 1:20 bankruptcy 300:16 banter 189:23 bargaining 44:23 45:7 46:5 92:4,24 93:5,24 94:17 94:24 120:9 136:13,19 152:2 198:16 215:19 216:13 216:19 245:18 279:7,16 Barnett 124:4 base 108:5 based 18:15 29:20 31:15 56:23 57:25 91:19,23 95:20,24 111:17 195:7 245:17 277:8 basic 52:2 339:3 basically 169:3 199:11 269:2 basing 58:18 102:11 basis 23:10 55:21 71:18 108:12,16 121:13 123:21	127:21 138:6 202:20 212:19 212:25 215:15 248:19 326:22 bat 156:23 Bates 65:12 136:24 156:6 156:17 161:1 280:24 287:16 288:4 290:3,4 battery 37:23 bearing 65:12 bears 10:14 280:23 beating 118:19 beginning 174:19 189:16 236:21 266:23 325:5 begins 151:15 155:11 163:25 237:17 behalf 2:3,11 226:15,20 248:23 249:7 249:12,16 250:3,8,22 254:9 266:10 266:14 273:3 274:15 275:24 belief 108:5 272:9,16 273:11,19 277:4 believe 9:13 10:14 22:16 26:1 28:6 29:18 31:14 32:2 46:8 47:3 49:17 55:15 55:16 66:25 75:19 79:8 84:24 85:5,14 86:3,9,19 87:20 88:11	92:8 95:17 104:8 106:1 106:25 107:10 108:1 109:3 111:22 115:10 117:2,4,11,17 118:11,16 126:1 129:22 130:4 133:19 133:24 134:6 171:6 174:5,7 199:4 206:3 211:22 212:19 213:1 235:7 237:1 238:15 249:11,14 250:2,21 253:24 256:4 257:10 265:11 266:6,12 271:19,20 277:8 279:17 287:19 288:10 298:21 300:23 314:18 322:6 322:13 324:8 324:18 328:22 331:19 believed 82:12 90:21 95:16 96:10 113:19 195:5 207:15 231:20 249:6 251:7 262:6 262:10,12 267:25 Belkin 302:11 benefit 257:8 261:3,8 262:13 263:8 264:9 266:7 266:23 benefits 104:20 130:9,11 139:15 150:13	151:11 152:6 173:1,5,8 180:18 183:25 184:4 188:15 188:19,25 193:13 253:13 258:12,14 259:8,22,22 260:5 261:17 261:17 264:11 265:24 266:17 278:13,21 293:25 294:15 322:25 BENTLEY 2:13 best 87:4,9 163:4,19 198:7 272:9 272:15 273:10 273:19 277:3 295:23 325:25 better 118:11 119:11,18 123:3,23 124:16 125:12 154:3 beyond 149:1 150:7 bid 249:19 bidding 146:12 147:13 199:6 199:14 201:23 202:2,16 213:10 216:24 227:22 236:19 236:20 238:10 246:18 247:11 247:13,19,22 248:1,2 267:9 big 116:24 174:10 254:5 bigger 79:10 bike 120:2 bill 98:17 102:7 102:23 121:2	122:15 197:17 255:3 261:3 315:19,23 316:6 billing 258:4,11 258:24 260:25 261:16 bind 168:10 binding 145:18 146:5 birth 307:12 bit 21:21 22:9 85:23 191:3 198:2 black 147:8 blow 35:2,5 blowing 35:6 blue 147:5 294:5 board 57:12 72:15,17 73:10 74:4 77:16 144:11 271:17 Bobal 24:16 25:2,3 50:19 50:23 51:5,8 51:11,14,17 51:20 52:12 52:16,23 53:15,21 54:2 54:12,21 55:1 55:14 56:15 57:7,16,22 58:14 59:15 62:19 63:3,12 63:21,22 64:3 64:11 65:25 66:11,21,24 67:22 68:6 70:15,21 71:7 101:21,25 102:8,12,18 102:19 103:1 103:6,11,12
---	--	---	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

104:8 105:4 105:14,25 106:16,18 107:7,10 108:1,6,8,18 108:23 109:13 110:16,20 111:11 112:1 113:3 115:14 183:9 191:25 197:18 199:21 218:4 219:3 222:15 224:3 228:11,23 229:10,13,15 229:17 230:13 231:1 232:13 233:24 235:10 237:3 239:22 251:3 252:20 254:12 255:3 255:13 323:6 323:7 Bobal's 67:1,6 105:9 200:7 201:9 255:14 256:4,9 Bogard 83:17 89:20,25 bonus 242:17 242:22 book 162:2,3 books 332:13 born 307:14 boss 48:4,6 Bottling 1:10 1:14 3:14,18 3:25 8:1,12 12:15,23 15:8 16:23 17:2,7,9 17:24 18:5,14 19:1,7,19 20:4 20:8 21:10,16 21:23 25:11 25:17 29:1,5	35:19 43:2 50:24 59:6 60:9 68:1 83:18 84:9,12 99:7 100:13 100:21 101:7 101:10 106:21 136:7 274:2,2 bottom 61:15 66:5 150:16 150:18 162:5 166:20 167:20 209:12 227:17 245:11 258:8 261:6 bowlings 343:20 box 2:7 16:2,4 16:5,12,15,21 17:5,11 18:3 18:12,19 19:13,20 166:24 boxes 16:7 18:8 brake 27:18 brakes 23:5,23 63:17 branch 98:18 240:1 break 118:7 131:5 244:2 breaks 36:12 briefly 127:13 196:23 bring 111:20 195:14 236:19 Brookfield 334:3,4 Brotherhood 45:22 brought 43:22 45:10 180:8 199:4 205:24 249:17	bucket 301:25 bulletin 144:11 bump 126:5 146:15 147:21 222:2,6,20,24 223:17,24 224:4 236:17 236:25 238:2 bumped 126:8 126:13 bumping 236:4 bunch 16:6 busiest 159:10 business 25:22 25:24 40:24 41:1 169:1 310:6,8,11,15 busy 196:9,11 196:12,13,16 Buy 343:18 buying 298:25 Byrnes 178:19 179:20,23 BY-MS.MCA... 3:8 245:3 <hr/> C C 31:24 32:8 43:15 66:9 122:25 131:19 156:23 323:19 Cadbury 1:13 100:22,23 101:10 calendar 138:7 319:3,7 call 43:25 70:16 70:22 71:4,5 76:15 97:10 128:23,24 142:5 199:5 232:16 241:9 246:2 252:21 254:7 284:2 285:11,19	325:22,23 333:13 called 3:2 9:10 40:20 81:5 114:18,25 139:4 142:5 179:8 199:14 201:22 202:16 249:20 280:11 286:18 325:24 333:13,16 calling 158:11 170:17 333:3 calls 111:4 130:2 247:1 264:20 317:17 317:21 caps 162:21 289:9 caption 345:20 carbon 66:14 card 25:22,24 169:1 262:17 314:14,17,22 314:24 316:13 care 104:21,23 118:21,23 242:25 322:24 339:10 cared 118:17 118:18,24 270:20 carefully 162:23 cares 120:13 carrying 295:12 297:11,16 300:10 case 1:9 3:13 6:10 9:11,15 12:16 15:8,15 15:25 21:4 23:11 48:17 60:3 99:11 145:16 155:11	207:1 251:23 252:7 254:11 293:8 301:12 302:15 314:8 314:13 315:8 322:7,10,15 323:3,8 324:9 327:22 328:3 338:13 cases 94:20 cassette 116:24 categories 17:10 41:15 137:17 Catherine 274:14,17 275:17,23 277:9,15 caught 113:25 cause 140:13 270:3 303:8 345:11 caused 274:1 274:19 275:3 275:21 276:7 276:24 causing 277:6 CBA 44:2,11 45:16 94:11 145:8 216:11 232:10 236:22 cc 66:5,9 CDL 224:20 ceased 250:2 center 1:21 266:7,17,23 Central 302:16 cents 112:12 certain 9:12 10:7 12:14,22 13:15 22:3,4 47:24 94:11 94:12 104:20 121:23 140:22
---	---	---	--	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

153:6 173:1 342:6 certainly 15:10 20:19 95:19 129:4 142:6 150:2 155:4 178:24 183:10 200:18 248:22 304:18 certificate 62:22 63:5 111:25 112:14 112:17,22 345:1 certification 162:20 certified 3:5 62:18 63:2 65:25 67:2,6 197:25 200:4 234:7 239:22 276:7 277:2 certify 163:2 345:8,18,22 certifying 163:16 167:2 168:18 273:16 277:5 287:8 289:18 301:17 cetera 93:1,1 189:24,24 232:17,17 challenge 145:5 chance 103:17 change 36:1 168:8 200:13 252:5 259:25 275:14 286:6 341:13 changed 35:25 37:1 126:3 199:22,23 200:8 201:9 264:14	changes 69:22 changing 264:10,12 chaos 190:8,14 190:16 characterizat... 83:20 characterizat... 207:10 charge 38:18 39:17 258:24 268:4,7,10,14 268:18,25 269:8,12,15 269:19 270:1 270:8 271:15 271:18,21 272:8,15,25 273:9,17,23 275:7,13,15 275:19 277:3 277:13 300:5 322:19 charged 297:10 297:15,23 298:1 299:8 charges 260:11 296:24 297:1 299:7,21 300:1,1 Charlie 178:18 179:20 check 61:10 65:19 77:15 242:15 243:21 243:22 267:24 322:22 326:8 327:1 335:25 checked 166:24 Chicago 2:16 children 307:25 choice 269:4 269:16,18 choose 95:2	chose 19:4,5 47:25 68:3 146:7 277:10 Chris 42:5 Cindi 192:4 Cintra 2:13 3:10 circumstance 69:19 circumstances 91:13 149:1 266:19 300:6 civil 3:3 10:20 35:9 346:4 claim 20:9 21:6 21:7,25 22:2 22:11,21 23:1 23:11 91:8,15 92:7 93:15 100:18,18 101:18 102:4 114:8,11 119:4 127:13 127:14,15,22 128:2,8 131:20 171:13 193:8,12 197:2 198:22 201:22 202:1 202:15,20,21 210:8 230:19 294:14 323:2 323:8 326:22 340:18,24 341:2 claimed 110:15 265:20 claiming 23:10 101:4,14 116:3 171:8 290:12,17,18 claims 4:4 9:14 20:2,7 21:3,5 21:9,14,21 100:16 107:18	109:6 119:2 265:14 322:7 322:10,15 324:19 327:22 328:2 clarification 26:16 65:20 clarify 6:18 83:22 204:10 245:12 250:25 clarifying 207:13 classes 165:21 166:14 classification 41:24 142:25 143:11,15 146:19 148:2 202:9 208:10 212:15,17 227:25 classifications 145:15,25 213:11 222:3 222:7,21 clause 140:21 141:2,3 194:1 194:10 Cleaning 118:25 clear 78:19 Cleveland 1:23 54:18 client 172:13 200:12,19 clipboard 34:5 39:18 40:1,2,5 clipped 11:16 11:19,20,22 338:1,18 clock 71:19,19 120:6 clocking 71:23 clogged 303:23 304:1 305:3	clogging 305:5 305:10 306:1 close 38:19 120:5 148:10 226:18 338:2 closed 99:12 278:25 301:25 closure 279:2 cmcardle@s... 2:18 COBRA 20:10 21:6 104:24 127:13,14,15 127:23 128:3 128:11,20 129:9,15,19 130:5,9 131:2 242:8 253:20 253:22 257:6 264:13,17,19 264:23,25 265:3,7,13,15 265:18,18,21 266:2,10,13 266:18 267:12 271:5 337:18 341:2 code 135:10 coincided 184:13 coincidence 317:8 cold 333:3 Colello 42:6 190:6 323:18 323:25 324:1 324:4,8 collecting 44:23 198:16 collective 45:7 46:5 92:4 93:5 93:24 94:17 94:24 120:9 152:2 215:19 216:13,19
---	--	---	---	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

245:17 279:6 279:15 collectively 137:10,17 college 308:3,7 color 60:14 70:6 come 37:2 119:1 124:24 125:1 127:4 162:1 216:8 310:4 comes 338:13 Coming 186:8 comment 90:14 103:2 commission 307:1 346:18 commissioned 345:7 communicate 60:24 communicated 77:8 315:14 communicati... 219:12 communicati... 64:11 262:25 314:22 communicati... 10:6 76:18 129:3 270:7 315:24 comp 119:4 companies 281:18 282:1 287:22 288:13 329:25 331:9 331:14,15,24 332:1,4,11,16 332:21 333:2 333:8 company 3:14 3:19,21,24,25 8:1,12 10:8	15:8 16:23 17:2,7,9,25 18:6,14 19:1,8 19:19 20:4,8 21:11,16,23 25:11,17 29:1 29:5 31:10,17 35:19 43:3 50:25 56:6,25 57:3,20 59:6 60:10 63:13 68:1,9 69:7,13 83:19 84:9,12 94:2,4 99:7 100:13,21 101:4,7,8,18 102:1,5 105:12 106:21 110:9 124:7,9 140:15 141:19 141:24 143:10 144:20 145:13 145:17,24 146:5 148:25 149:2,8 151:1 151:16,19 159:22,25 164:18 168:2 168:3,7,10,19 177:9,24 182:20,21 183:1,2,7,8,11 183:25 184:4 187:15,23 188:14,18 194:2,14 195:18,23 196:20 198:11 199:9,12,15 200:9 201:11 201:13 203:3 203:14,21 204:1 207:10 210:19 213:5 215:16 216:4	216:9,14,20 217:8,13,23 218:11,16,22 219:8,21 221:3 222:8 222:17 223:3 223:13 225:7 232:7 234:24 236:7,14,24 237:18 238:1 240:11,15,19 240:24 241:5 241:24 242:13 252:18 253:6 263:23 264:1 264:4,8,16,22 265:6 267:17 267:18,20,22 271:6 274:2 280:11,22 281:3 282:3,6 283:9,18 284:16 286:18 290:7,11 292:9 329:13 333:17,24 company's 12:16,24 151:6 192:13 241:1 246:10 257:8 compare 156:3 156:8,9 compartment 301:25 compensation 164:8 compensatory 305:19 competency 140:11 complain 24:12 26:4 32:10,11 51:4 complainant	89:8,13 complained 24:23 25:7 26:8 29:1,6 31:24 32:13 33:8 52:2 76:12 99:8,18 117:22 118:2 118:13 complaining 33:11 46:23 47:9 78:9 79:4 101:20 complaint 7:22 7:24 8:10 22:17,19,21 22:23 23:2,9 23:15,20 24:6 26:11,20,22 27:2,4,8,14,25 28:4,20 32:17 32:20 34:1,19 34:25 37:4,17 38:3,10,22,25 39:2,25 40:4 40:10 42:10 42:14 46:16 46:21 47:7 51:7,10,13,17 51:19 54:4 79:21 80:22 81:20,21 82:6 82:7,13,14,17 82:20,24 83:5 84:8 85:2,8 89:13 95:8,10 96:12,13,22 97:3,6 100:20 100:24 101:6 101:12,15 102:15 103:8 104:2,10 105:16 106:3 106:19 113:14 113:21 117:7	117:14,19 118:14 119:9 119:15 130:15 130:22 131:2 131:21,25 132:2,4,7,13 132:14 134:12 265:11 268:2 304:20 305:2 complaints 81:23 119:17 complete 5:9 5:11 7:5 48:14 282:15 290:2 completed 40:10 151:2 167:13,14,15 171:17 172:11 172:16,24 291:25 292:16 312:16 completion 172:3 173:6 comply 94:16 94:23 computer 64:23 69:15 129:8 129:13,17 330:3,4 332:13 334:14 335:10,12,16 335:19,24 computers 335:3,6,9,21 concealed 295:13,15,18 296:19 297:11 297:17 300:10 301:24 concern 43:23 45:11 63:14 176:1 181:12 186:23 concerned 190:12
---	---	---	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

concerning 9:14 18:13 20:1 23:2,20 28:21 56:20 62:18 64:3 65:22 67:20 75:6,13,24 85:8 95:9 97:4 114:10 119:9 134:12,17,17 134:23 136:18	271:4 confirmation 112:4 113:2,6 259:19 confirming 79:20 confirms 259:22 conflict 35:9 46:8 conflicts 45:20 confused 169:21 confusing 92:2 95:13 130:2 confusion 128:25 147:4 223:6 266:20 267:19 congratulation... 215:10 connection 109:23 111:6 249:2 250:22 288:11 304:1 310:16 314:12 consider 42:21 43:1 102:19 103:7 113:13 169:18 217:14 217:20 218:1 218:12,18 219:8,22 223:14 241:1 246:13,16,20 consideration 172:15 177:15 177:20 217:12 considered 102:14 103:25 104:9 110:11 113:15,22 114:3 115:12 115:17 117:3 117:5,12,18	170:20 177:25 183:19 188:9 242:23 considering 333:19 consistent 33:5 constitute 162:24 Constitution 45:22 consult 252:25 consulted 109:23 110:3 consulting 110:1 contact 91:3 99:20 100:6 110:24 111:1 149:8 172:12 179:25 189:2 189:5,10,21 191:4,22,25 192:7,20 232:14 236:7 236:14 252:18 252:25 253:5 253:14,15 254:13 266:1 293:24 294:8 322:19 contacted 189:15 190:2 265:19 266:3 266:7 268:15 315:3 329:25 contacting 228:23 contained 17:5 160:22 163:17 163:21 226:6 239:1 287:9 289:19 container 298:10 299:25 contains	186:19 337:24 contents 227:20 251:6 272:14 273:16 286:10 287:5 289:18 contested 307:6 context 292:15 continuation 294:9 continue 168:11 176:3 176:8 181:16 181:23 182:3 182:11 187:1 251:17 262:20 268:17 279:17 304:23 continued 37:13,16 236:25 245:2 continuing 295:6 331:8 Continuous 319:8 contract 92:4 136:21 137:14 137:15,15 139:1 142:11 144:17 145:4 145:6 151:23 152:24 153:9 153:19 154:1 154:2,17 155:8,18,20 156:5 157:4 157:18,19,19 157:20 190:20 190:22,23 199:7 206:19 207:16 208:7 212:12 220:8 236:22 241:13 346:3	contractor 310:17 contractual 139:15 222:1 222:5,20 223:16 control 149:1 Convention 45:24 conversation 32:23 34:11 34:15 70:24 85:24 87:8,11 132:22 184:10 215:5 317:1 317:25 325:17 325:20 326:1 327:5,12,16 conversations 15:21 192:19 327:10 converting 221:18 convicted 166:22 167:3 297:10,20 300:4,7,10 conviction 300:12,14 convictions 297:23 copied 80:10 239:7 245:25 copies 16:22 66:14,16,19 68:4,12 69:8 98:13 251:14 251:22 339:13 copy 26:2 61:9 62:11 66:24 67:2,6,15 68:14,25 69:11 70:7 74:17 83:15 84:15 99:9
--	--	--	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

136:4 159:21	116:16,17	218:8,14,23	44:6 45:25	240:2,5,8
189:1,8	129:21,25	219:19 220:7	81:2,25 84:17	241:6 243:3,5
193:22 197:16	130:5,10	220:9,19,20	99:15,21	243:9,11
197:22 209:15	131:3,22	221:21 222:9	137:11 138:11	246:3 250:15
209:22 227:12	132:24,25	223:11 224:12	139:1,18	252:16 253:7
228:10 232:25	134:4,18	224:18,24,25	140:16,18	293:19 294:4
239:21,23	135:18 136:9	225:11 226:13	141:21 143:6	322:21
240:4 258:10	136:21 138:18	228:20,21	144:14 145:20	costs 305:22
272:25 278:1	139:23 140:24	229:1,2,6,12	146:20 149:5	counsel 9:3
280:25 286:5	143:13,14,19	229:13 230:6	149:22 151:8	19:12 21:19
287:3,10	143:20 144:13	231:11 233:2	151:24 163:12	60:2 232:7
301:11 302:13	144:20,22,23	233:7,8 234:7	164:11 168:13	253:10 254:8
320:21 328:23	145:7 146:1,2	234:14 235:19	179:10 181:18	254:19 283:1
330:9	146:6 147:14	236:16 238:4	187:3 217:16	291:2 301:3
corner 227:17	147:23,24	239:4,5,8	272:10 273:12	324:5 345:23
corporate	148:3,13	240:10 241:25	274:10 289:15	counsel's
29:25	149:11,14	242:1,18,21	307:6	111:7
corporation	150:5,9 152:6	243:15,16	corresponde...	count 212:7
57:11 163:1	152:21 153:2	248:19 255:4	13:12 14:15	counting 36:11
164:9 305:15	153:3 154:22	257:9,20	14:20,25 17:6	36:12
correct 5:2 6:12	154:23 156:19	261:14 263:4	17:8 43:21	County 302:17
8:1 11:24 13:1	157:11,25	263:5 264:19	44:24 53:12	345:4
14:17,22,23	158:1,8,9,14	264:25 265:15	53:16,22	couple 61:5
16:19 17:2	160:2 161:24	265:22 267:21	61:10 64:2,24	120:12 144:25
20:11 21:7,8	163:4,18,22	268:7 269:9	65:10,21	145:2 166:6,9
21:11 22:5	167:24 168:22	269:10 273:20	67:20 68:5	309:18
23:7 26:2,20	173:7 174:14	285:22 288:14	69:7 70:2,15	course 10:9
26:21 27:10	174:21 175:2	288:19 289:21	70:21,25	40:23,25
29:24 30:5,9	175:3,21	289:22 290:4	74:23 79:20	48:18 58:6,7
37:5 42:23	176:4,9,13,15	290:5 296:16	82:3,23 83:3	64:14 119:19
52:6 55:18,24	178:22 180:4	296:22 297:13	83:13,16	128:9 236:6
60:17 61:25	181:1,25	300:12 301:20	86:11 88:13	308:10 342:11
66:7,11 68:23	182:6,13	305:16,22	96:9,23 97:11	342:14
69:1 71:14,18	183:11,21	307:21,22	98:2,14,17	courses 308:9
72:2 73:6,7,17	184:5,17	308:1 310:21	99:1,5 100:10	308:13,16,17
76:1,14 79:8	185:18,23	319:7,12,25	111:13 113:4	309:14
79:12 84:14	186:7,10	320:6,11	131:17 192:22	coursework
88:23,24 90:5	188:16,20	326:23 331:20	193:1 222:18	309:1
90:12,24 91:7	192:14 193:11	337:18,19	225:22 226:4	court 1:3 5:7
93:25 95:21	195:1 196:20	339:6,14	226:7 228:10	6:1,6 297:13
95:25 96:20	197:1,24	345:16	229:10 230:17	302:17 304:20
99:3,22	209:18,24	corrected 33:6	233:5,24	307:7 346:1
101:25 107:2	210:2,15,25	97:13,20	234:4,13	courtesy 39:20
108:24,25	211:2,7,12,20	99:13 100:2	235:10,18	39:20 186:2
111:21 113:9	216:16,22	correctly 11:14	239:8,21	cover 65:3,14



1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
 Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

106:23 115:24 256:12,22 coverage 104:21,23 258:22 259:22 261:4 262:13 264:15,23 265:8 294:9 294:12 covered 4:22 13:22 14:3 42:16 105:24 257:7 276:16 279:8 327:17 covering 195:11 263:8 covers 117:20 257:4 Cozant 31:25 32:6 Cozart 24:15 25:1 31:24,25 32:2,8,14 38:11 39:1,12 39:25 40:4 42:11,15,17 42:22 43:1 44:1,22 45:5 46:10,21 47:7 47:16 48:21 48:25 49:2,8 49:11,15,19 50:1,8,14 52:3 67:21 68:6 70:22 71:1 72:6 119:23 120:4,15,16 124:14,22 125:11 132:23 169:6,11 170:1,3,6 327:23 328:9 Cozart's 125:2 CPA 161:6 created 126:14	crime 299:9,9 crimes 297:16 criteria 333:22 current 154:20 278:1 310:5 310:22 314:6 314:10 315:6 315:10,15 317:17,21,25 currently 73:4 130:8 147:8 299:12,18 307:20 308:6 309:22 customer 261:5 cut 227:24 cutting 206:10 cut-off 27:20,23 51:24 cut-offs 23:6,24 Cuyahoga 345:4 CV 301:13 CVF 302:16 D D 2:5 83:18 131:19 148:22 156:3,4,9,11 156:14,21,23 156:24,25 161:5 312:4 346:4 damages 305:19,20 Danny 119:22 123:4,5,8 dark 118:22 data 165:3 date 38:23 39:1 48:7,22 49:1 83:16 84:2 107:2,6 111:11 123:18 125:3 134:7	144:4 149:21 196:6 206:8 212:10 213:14 213:15 214:18 214:24 215:8 220:11,12 224:11,12,17 224:17 231:18 231:22 232:9 234:10 250:1 250:7 259:20 261:1 263:10 266:21 276:1 276:3 278:6 280:4 292:9 292:21 307:12 329:14 331:23 dated 13:13,25 14:16,21 43:13 65:15 65:17 68:19 80:18 83:13 83:25 98:15 98:19,21 131:17 175:24 179:20 181:11 185:9 186:22 197:18 202:5 205:7 225:23 230:4,9 232:25 233:24 243:21 250:17 253:23 257:6 258:5 289:4 291:14 293:17 dates 136:15 153:1 250:14 250:15 263:21 263:25 264:10 264:12,14,14 264:15 267:16 267:19 275:25 278:10 David 156:10 day 37:5 48:11	48:14 52:18 52:21 59:9 69:21 73:2 104:4 125:16 125:22 142:1 142:15,16 159:10 169:9 170:2,4 171:22 173:16 173:21 174:4 174:23 179:8 202:11 205:10 205:24 208:25 210:1 235:13 236:9 279:4 314:1 334:19 336:9,15 341:15 346:6 days 47:22 61:8 61:10 81:23 128:4 138:7 138:16 139:11 141:20 142:3 142:13,14 144:12,18 145:6 148:24 149:3,10 170:25 208:2 208:4 284:3 285:12,19 334:23 day-to-day 71:17 dba 1:10 100:21 101:8 274:2 deal 67:8,9 103:5,22 105:7 243:20 255:22 322:24 dealing 128:13 dealt 247:5 Dear 228:16 Dearborn 2:14 December	133:21 134:1 134:3 192:16 192:17 239:23 241:14 242:10 242:16 250:17 253:19,23 254:3 258:22 258:23 259:7 259:24 260:6 262:21 263:11 263:19 265:5 267:14,17,18 267:21,23,24 275:8 291:14 291:16 294:11 decide 18:18 19:11 112:21 135:4 270:1 309:18 decided 199:24 268:24 269:3 269:3,11 deciding 172:15 decision 30:16 30:19,22,25 31:6,12,20 49:19 50:1,8 50:14 56:5,6 56:15,21 57:4 57:7,17,23 58:4,15 59:3 59:16 107:5 107:25 108:7 108:11,14,18 108:24 109:4 109:13 110:4 110:11 172:3 172:10,22 177:4,7,11,16 177:21,25 182:24 183:4 183:15,20 187:11,13,17 187:21,25
--	--	--	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

188:6,10,12 208:5 decisions 144:22 247:15 declaration 272:3,13 273:5 declare 272:7 273:8 decrease 140:9 deem 105:15 deemed 144:13 145:7 284:3 defect 63:15 defendant 1:15 2:11 3:18 10:22 303:3 defer 154:25 216:12,18 define 22:6 42:24 294:22 294:23 306:10 defined 44:2 45:6 46:4 346:3 Defining 182:7 definitely 38:16 133:10 246:12 250:4 definition 22:7 294:25 degree 308:7 deliberate 289:11,20 deliver 73:15 73:21 74:5,19 77:16 delivering 74:14 delivery 112:4 137:6 140:4 144:6 174:13 demand 305:18 demeanor 104:3 105:9	199:22 200:8 201:9,14 demote 140:12 Dennis 124:4 Denny 123:11 123:12,24,24 123:25 124:2 124:3,6 Denny's 124:10 dental 130:12 150:23 257:20 258:21 259:5 260:13 261:12 337:18 departed 110:18 department 50:24 92:21 98:19 192:14 210:23 212:17 213:13,14,19 213:24 214:1 214:2,4,15 265:20 departments 94:12 202:3 DePasquale 190:6 depended 248:12 dependent 246:22 Depending 342:6 depends 69:19 104:16 310:3 334:8,15 335:7 342:3 depose 324:10 deposed 3:5 deposing 323:22 324:4 deposition 1:17 3:12 4:17,20 7:13,18 8:4,15	8:20 9:18,23 11:6,11 12:12 12:21 13:3,8 13:11 14:6,11 14:19 15:5 43:7,12 59:20 59:25 61:20 62:4,9 63:19 63:25 65:5,9 66:19 67:11 67:12 68:18 74:11,15 75:10,16,22 76:6,21 77:1 77:17,25 78:6 80:1,6,15 83:8 83:12 90:2 96:3,7 98:5,10 99:24 111:24 130:14,17 131:9,15 135:12,17,21 143:17 152:10 152:15 159:15 159:20 160:5 160:8,19 161:22 167:8 167:17,20 168:25 175:15 175:20 178:9 178:14 181:4 181:9 185:3,8 186:13,18 189:2,9 191:24 193:16 193:21 195:3 197:7,12 200:15 204:21 205:1 206:21 208:19 209:4 209:15,21 211:4,18 216:25 224:8 224:15 225:3 225:16,21	227:7,11 228:4,9 229:10 230:4 230:8 232:12 232:19,24 233:18,23 236:2 237:13 238:14 239:2 239:6,14,19 242:3 245:7 251:1,7 252:16 253:7 257:23 258:3 258:20 259:11 259:16 260:18 260:23 263:7 268:3 270:22 271:3,10,14 272:19,24 273:15 277:17 277:22 278:4 280:6,9,15,20 281:4 283:2,7 284:24 285:24 286:5,16,22 287:2 291:4,9 293:10,15 301:5,10 302:3,13 304:24 318:4 318:8 320:14 320:19 321:2 321:17,22 322:3 325:6 327:19 328:17 329:2 331:10 332:5,12,17 332:22 333:2 337:23 338:17 339:18,23 340:4,8 345:19 Derick 83:17 derived 93:21 deriving 93:3	describe 326:1 described 191:9 194:7 249:5 255:8 designate 12:22 109:14 110:4,12 designated 139:23 designating 12:14 designation 107:15,21 108:7 109:24 desire 236:8 desk 40:12,13 41:5,10 75:8 75:15,25 76:9 despite 44:15 48:2 236:23 253:2 262:7,9 265:17 267:12 detail 19:25 21:21 100:16 158:5 details 24:11 determination 18:23 determine 18:10 69:10 determined 144:4 220:11 265:12 determining 140:10 dial 253:15 dialogue 32:24 32:24 34:3 47:1 86:25 215:6 dictates 94:5 difference 153:8,17 154:14 155:17 157:11,14
--	---	--	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

265:7 differences 153:25 different 41:23 70:5,6 94:22 101:2 104:14 104:18 124:25 142:24 143:10 154:12,13,16 156:22 157:1 157:2,4,13 173:4 174:22 199:20 207:3 212:23 263:23 264:9 284:18 317:7 334:20 341:6 342:12 343:25 344:1 differently 11:19 81:17 341:21,25 342:4,15,19 343:2,10 difficulties 313:3 difficulty 313:17,21 digital 116:21 dinners 343:18 DiPiero(sic) 121:2 DiPietro 126:16 315:19 327:24 328:12 diploma 165:18 direct 300:13 directed 56:17 106:10 direction 111:7 140:4 directly 68:8 82:5 121:25 director 85:12 directors 57:12 directs 57:11	disagree 211:13 227:19 disagreed 99:25 100:7 disagreement 48:1 discharge 105:19 140:13 179:7 discharged 138:8 disciplinary 163:10 discipline 47:16 54:12 disclosing 89:2 89:7,12 disclosures 9:11 32:9 111:17 discovery 10:9 13:16,18 26:2 60:10 67:25 80:8 197:14 251:23 252:7 277:25 discrepancies 249:20 278:6 discriminate 274:3,19 275:4,22 276:8,25 277:7 discrimination 81:14 276:13 277:12 discriminatory 81:24 discuss 189:3 189:6,11,17 191:25 192:9 208:6 240:22 discussed 198:14,20 199:2 201:17	201:24 202:14 206:5 207:6 245:10 249:5 315:17 325:1 discussing 32:24 36:15 36:20 100:15 193:23 discussion 33:21 35:9 85:11 93:9 164:24 195:7 197:5 254:18 282:25 291:1 301:2 discussions 107:17 325:10 disgrace 115:8 disorganized 130:18 190:9 displaced 146:17 147:23 222:4,22 dispute 144:23 144:24 145:17 146:4 155:11 299:11,12,16 299:17,18 disputing 44:21 45:5 278:10 disruption 185:25 190:9 distribution 25:15 District 1:3,4 302:17 DIVISION 1:5 document 7:19 8:5,6 9:24 10:1 11:2,12 11:21 12:1,6 12:16,24 13:9 14:12,14 15:3 15:7,10 31:3 52:25 60:1,3	60:13,20 61:4 62:10,16 63:6 63:19 65:12 65:14,25 66:7 67:16,19 68:21 69:12 69:17 70:11 77:2,3,6 80:7 80:11,12 83:21 98:10 98:24 130:21 132:2 135:18 135:23,25 136:23 152:16 167:14,15 168:16 175:21 175:23 178:25 185:8,11 186:19,22 197:13,18,23 205:2,3 211:21 217:2 217:4 234:19 241:16,19 242:3 258:19 259:17 260:4 260:24 264:7 272:4 273:7 273:14 277:24 280:21 281:4 281:6 284:11 287:3,16 289:1,1,7,17 289:19 290:2 291:10,13 292:18 299:5 301:14 304:10 338:1 documentation 243:3 290:13 290:19 340:13 documents 8:21,24 11:16 11:22 12:14 12:22 15:14	15:24 16:22 16:25 17:1,3 17:10,17,17 17:18 18:13 19:4,12,17 69:6 112:6 159:6 164:15 185:17 284:16 284:17 285:5 287:9 339:17 doing 35:5 188:23 202:22 206:12 208:10 262:8 263:14 335:1 double 39:20 doubled 159:12 Doug 174:8,11 174:12 DPSG 3:20,23 DPSUBG 136:7 Dr 1:11,12 100:21 101:8 101:9 136:6 139:21 161:23 258:5 259:17 260:25 draft 268:21 drafted 66:6 178:23 226:25 273:2 274:14 275:24 304:10 drafting 277:9 277:15 drastic 200:12 drawing 109:10 drill 22:8,17 24:10 drills 327:2,3 drink 98:3 drinking 298:22 298:24 drive 16:18 116:19 234:1 258:7 259:21
---	--	---	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

261:2 310:23 312:14 313:4 313:22 335:7 340:9 driver 124:5 214:6,20,21 215:10 drivers 137:6 140:4 143:18 144:6 204:16 driver's 224:20 driving 341:15 drop 72:18 269:3 270:5 due 91:12 130:1 146:13 147:19 dues 72:16 73:11,20 74:4 77:15 189:18 189:22 190:19 243:22 248:18 249:23 250:10 250:19 261:22 262:18,21 270:15 274:8 322:25 DUI 120:5 duly 3:4 345:7,9 Duplicate 51:25 duties 158:16 duty 126:3,21	131:22 132:19 133:16,17 168:25 195:3 198:4 206:21 210:18 212:10 229:4 231:23 245:10 248:18 253:17 254:22 255:23 earliest 133:12 early 37:2 266:6 267:4 ease 32:11 136:23 easier 132:11 161:2 easily 70:11 East 1:22 2:6 EASTERN 1:5 easy 69:24 educated 195:15 213:20 education 166:12 309:23 310:2 educational 165:3 308:20 effect 266:8 effective 176:2 181:14 186:24 217:15,21 218:2,13,19 219:9,23 221:19 223:15 228:19,25 241:14 253:19 254:3 259:23 265:5 267:14 267:21 291:16 efficient 140:7 efforts 329:18 330:18 337:4 eight 17:21 47:21 202:6 eight-hour 36:7	36:10,17,23 48:14,21 142:14 either 96:24 97:20 134:18 161:18 231:17 290:17 343:2 345:24 elapsed 138:16 elect 130:5 264:17,23 265:21 266:10 266:13,18 elected 337:18 electing 266:2 electronic 27:18,21 158:17,23 eligibility 293:20 eligible 173:1,6 278:9 eliminated 220:22 221:1 221:7,12 elimination 146:14 147:19 elude 296:24 employed 58:19 138:5 162:25 242:25 262:7 267:25 279:23 289:14 310:17 337:11 employee 42:2 45:19 87:14 90:11 94:13 138:3,15,21 141:17 142:22 143:2,3,9 146:17 147:22 148:8,21 149:18 151:1 170:16,21 173:15,21	174:2 175:11 210:24 211:20 211:25 222:4 222:12,22,24 223:25 224:5 245:14 257:14 260:12 267:9 278:21 279:7 293:1,7 314:7 314:11 315:7 315:11,15 317:18,22 318:1 employees 33:23 81:13 94:12 118:10 119:7,13 137:8,10,16 137:25 139:5 139:7,10,14 139:22 140:5 140:11 144:3 144:9 146:15 147:20 154:19 180:9 204:13 204:14,17 208:9,9 210:8 employer 84:21 139:12 142:24 154:19 300:21 302:15 employers 329:11 employer's 99:9 employment 4:5,7 17:24 18:5,25 19:7 19:18 20:1 30:13 31:7,13 31:21 49:16 50:9,15 57:8 57:18,23 58:5 58:15 59:4,17 82:12 86:23	87:5,12 90:14 90:21 93:25 100:12 104:13 127:9 140:22 144:21 148:10 148:12,16,17 152:25 158:3 159:23,25 161:23 162:17 164:5,7,13 167:13 168:3 168:5,9,11 170:5 171:1 173:4,11,14 174:19,25 191:17,19 198:19 240:16 240:18 241:13 242:6 245:15 245:20 248:24 250:23 253:4 265:4 266:25 267:3 281:9 281:16 282:7 282:15 283:8 283:15 284:4 284:13 285:13 285:20 287:11 288:17 289:14 292:8 294:1 294:10 318:21 319:1 329:12 330:1,18,22 331:4,7,13,24 333:15 334:7 334:13,18,23 336:4,13,23 341:6,22 343:3,23 enclosed 84:14 99:10 encloses 84:1 enclosing 83:14 enclosure
--	---	---	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

65:16 98:25 endeavor 5:10 ended 202:24 292:1,3,5 enforcing 140:6 engage 285:18 engaged 22:3 22:11 82:4,19 102:13 103:25 104:8 105:14 106:1 113:13 113:19 117:2 117:5,12 118:12 215:5 255:7,8 engaging 264:3 264:5 engine 23:5,23 27:23 enroll 151:6,21 310:1 enrolled 309:22 enrollment 259:19 260:8 264:14 entered 144:17 entering 102:21 102:23 entire 12:6 170:10 317:1 entities 288:15 289:24 entitled 60:20 92:22,24 93:3 94:6 96:1 137:24 139:14 146:15 147:20 152:5 165:3 171:9,14 194:6 200:20 259:18 261:17 262:12,16 292:19 entity 290:19 enumerated	238:25 envelope 60:6 60:7 equipment 27:16 equivalent 245:19 257:13 erases 314:3 ergonomic 43:23 45:11 error 129:13 errors 129:8 270:16 especially 190:19 ESQ 2:5,13 essence 221:20 essentially 22:2 22:10 52:2 established 81:1 et 92:25 93:1 189:24,24 232:17,17 evade 296:20 296:24 297:4 event 142:22 143:9 146:13 146:18 147:11 147:18 148:1 154:18 345:25 events 18:4 343:20 eventually 275:12 everybody 93:18 113:24 120:8 121:17 121:21 170:7 170:8 213:10 263:20,24 312:22 330:12 exact 27:23 87:4,10 333:23	examination 3:2,7 245:2 example 213:12 339:8 examples 60:23 exception 147:17 excluded 45:17 exclusive 140:23 exclusively 140:14 excuse 28:12 61:19 66:1 126:18 148:13 163:7 180:19 186:6 209:16 238:16 254:17 261:20 301:1 312:21 318:24 320:24 326:7 executing 145:6 exemplary 305:20 exercise 222:1 222:19 223:16 225:9 exhibit 7:18 8:20 9:23 11:11,12 12:12,21 13:8 13:11 14:11 14:19 15:6 43:12 52:25 59:25 61:20 61:21 62:9 63:19 64:1 65:10 66:20 67:11,12 68:18 74:11 74:15 75:10 75:16,19,22 76:7 77:1,17	77:25 78:6 80:6,15 83:12 90:2,4 96:4,7 98:10 99:24 111:24 130:15 130:17 131:15 135:17,21 146:24 152:15 156:13 159:20 160:5,8,19 167:17,20 175:20 178:14 179:17 181:9 185:8 186:18 189:2,9 191:24 193:21 197:12 205:1 208:19 209:9 209:11,15,21 210:22 211:4 211:18 216:25 224:8,15 225:3,21 227:11 228:9 229:11 230:4 230:8 231:5 232:13,24 233:23 235:25 236:2 237:5 237:13 238:14 239:2,6,19 242:3 245:8 251:1,7 258:3 258:20 259:16 260:23 263:7 268:3 271:3 271:15 272:24 273:15 277:22 278:4 280:6 280:10,20 281:5 283:2,7 286:5,12,16 287:2 291:9 293:15 301:10 302:13 318:8	320:19 321:22 322:3 327:19 328:18 329:2 331:10 332:5 332:12,17,22 333:3 337:23 338:17 exhibits 7:8 245:23 251:22 252:1,17 253:7 Exhibit-1 7:14 Exhibit-10 65:6 Exhibit-11 76:22 Exhibit-12 80:2 Exhibit-13 83:9 Exhibit-14 98:6 Exhibit-15 131:10 Exhibit-16 135:13 Exhibit-17 152:11 Exhibit-18 257:24 Exhibit-19 259:12 Exhibit-2 8:16 Exhibit-20 260:19 Exhibit-21 270:23 Exhibit-22 271:11 Exhibit-23 272:20 Exhibit-24 277:18 Exhibit-25 159:16 Exhibit-26 167:9 Exhibit-27 175:16
---	---	--	--	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

Exhibit-28 178:10	318:5	264:22 266:21	268:14 272:13	261:1 263:9
Exhibit-29 181:5	Exhibit-5 13:4	extending	288:17 289:12	265:2
Exhibit-3 9:19	Exhibit-50 320:15	222:9 236:24	289:21 340:17	federal 3:3
Exhibit-30 185:4	Exhibit-51 321:3	238:1	341:11 342:11	10:19 87:25
Exhibit-31 186:14	Exhibit-52 321:18	extension 237:2	343:21	88:5 321:8,24
Exhibit-32 193:17	Exhibit-6 14:7	extent 246:25	facts 6:9	feel 12:5 15:10
Exhibit-33 197:8	Exhibit-7 43:8	Extrusions	102:10 108:4	119:25 155:4
Exhibit-34 204:22	Exhibit-8 59:21	286:18 287:5	163:7 172:14	203:13,24
Exhibit-35 209:5	Exhibit-9 62:5	287:17,18,25	177:14,19,23	240:9 254:25
Exhibit-36 225:17	exist 99:14	e-mail 19:22	183:19 188:9	343:21
Exhibit-37 227:8	281:22 288:23	e-mails 111:4	200:17 297:1	feeling 342:25
Exhibit-38 228:5	existed 17:11	F	factually 56:8	343:5,6
Exhibit-39 232:20	97:14,21	F 192:4	fails 148:23	feels 99:11
Exhibit-4 11:7	100:3	fabricated	failure 274:7	121:17
Exhibit-40 233:19	existence 45:8	284:11	fair 5:13,23,24	feet 34:11
Exhibit-41 239:15	151:7	fabricating	6:12,13,19,20	felony 166:22
Exhibit-42 280:16	expand 15:16	284:16,17	16:21 18:22	167:3
Exhibit-43 285:25	91:8 231:15	285:5	19:3 20:25	felt 47:23 97:5
Exhibit-44 286:23	expected 248:22	face 101:6	21:1 36:1 44:9	190:18 255:9
Exhibit-45 291:5	expenses 13:22 14:2	199:21 203:7	44:20 45:4	293:25 296:8
Exhibit-46 293:11	expensive 112:12	faced 300:2	54:22 71:4	304:19
Exhibit-47 301:6	experience 40:16 41:3	facility 25:16	92:20 106:14	figure 93:13
Exhibit-48 302:4	192:15 268:11	33:24 35:20	258:15 260:16	121:24
Exhibit-49 240:25 264:16	269:1	51:1 71:6,14	306:2 318:12	figured 195:14
	experienced 313:2	72:5,11,23	faith 39:19	243:24,25
	experiencing 342:8	73:9,23 74:2	55:20 111:18	261:21
	expire 206:19	77:14 85:10	186:1 203:8	file 49:1 81:19
	207:17 231:25	105:6 132:21	277:14	81:20 82:6,14
	expires 346:18	133:4,13,22	false 296:23	82:17 95:7
	explain 103:17	134:2,8	297:2 304:13	96:13,21
	expressing 236:8	fact 30:19	falsifying	119:3 122:2,4
	extend 103:20	58:13,14,18	290:12,19	122:6 134:11
	extended 102:25 240:12	59:14 64:8	familiar 135:9	134:16 141:25
	240:25 264:16	71:25 108:8	175:22 184:20	215:13 226:20
		108:13,17	fast 208:6	285:6 286:11
		127:20 149:13	faster 220:15	287:9 292:19
		163:6,16	favorable 120:7	304:20 305:1
		184:22 217:12	fax 69:3,14,23	328:20
		219:22 229:1	69:23 70:3,3,7	filed 3:13 4:4
		236:13,23	70:10 254:14	7:24 8:10
		251:10 253:2	faxes 70:12	81:23 82:25
		262:9 263:2	February	83:5 85:2
		264:16,22	127:25 128:11	89:13 91:8,15
			133:16 242:13	91:21,25
			253:24 257:6	92:16 95:4,19



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

95:22 97:3 111:7 130:23 193:4 195:4 200:19 224:23 226:11,14 253:3 265:10 268:1,3 269:9 270:8 271:16 271:20 272:25 294:14 296:12 300:15,19,19 301:11 302:14 305:11,13 files 122:10 fill 159:3 237:7 filled 159:24 filling 158:19 334:11,16,21 334:24 find 88:15 91:3 242:5 323:5 323:10,14,17 323:21 324:12 324:16,21 325:3 328:5,7 328:10,13 332:10 finding 283:11 findings 100:1 fine 201:14 293:8 319:22 finish 5:22 110:19 343:11 finished 5:17 58:24 fire 326:9,20 327:2 fired 86:24 92:13 95:17 firm 346:2 first 3:4 7:7 10:2 11:14 20:12 21:24 60:19 66:6 84:5 90:7 99:6	102:18 112:23 129:24 131:1 134:7 142:13 160:4,7 169:9 170:2,4,12,13 170:25 202:4 204:11 205:16 209:12 211:3 211:18 217:2 224:9,10 226:8 228:22 231:19 234:18 237:17 241:20 242:11 251:13 251:20 252:5 252:14 253:18 253:22 258:9 260:11 Fisher 183:8 192:4,7,7,13 322:6,14,22 323:2 five 34:10 141:19 142:1 142:3,14 212:6,7 319:11 336:23 fka 1:13 100:22 101:10 flesh 103:16 Flex 151:7,21 flip 10:12 11:15 11:17 12:6 135:21 151:10 211:3 flipping 61:3 179:16 261:10 292:17 327:18 328:24 floating 61:6 127:3 floor 33:2 35:8 35:10 69:22 77:20 fluid 23:6,25	326:5 FOIA 77:4 following 148:8 162:23 245:13 246:19 258:17 276:20 follows 3:6 139:4 food 305:8 foot 133:3,21 134:1,8 forbids 89:2,6 89:11 foregoing 163:3 345:15 345:20 foreman 169:17 forgot 275:7 fork 28:9,12,13 33:1 37:10,21 51:22 63:15 72:20 78:16 78:16,25 326:3 forklift 35:7,12 35:12,15 72:7 77:18 78:8 forklifts 77:21 78:2 forks 118:19 form 26:22 27:1 27:4,7 32:16 51:7,10,13 53:4 149:10 159:2 286:6 321:11 326:22 formal 80:22 308:19 former 300:20 302:15 314:7 314:11 315:6 315:10,15 317:17,21 318:1 forms 23:10	forth 9:12 11:2 12:20 52:13 59:9 67:17 128:25 130:2 155:23 168:20 178:25 235:17 247:10 266:4 270:12 277:2 301:19 found 116:9,11 208:24 332:14 foundation 290:15 four 151:3 212:7 279:18 300:25 fragle(sic) 181:20 fragment 176:14 frames 139:23 free 12:5 15:11 155:4 240:9 frequent 33:23 friction 270:4 270:10 Friday 36:10,24 36:25 159:10 336:17,18 Friend 313:24 friends 119:22 119:24 123:3 123:7,13,23 123:25 124:14 335:22 343:8 343:15 friendship 124:17 fro 148:10,17 front 60:5 80:16 119:22 123:8 123:15 130:7 178:7 184:25 217:4 full 4:9 7:4	full-time 280:7 309:20 funny 161:17 further 138:9 344:2 345:18 345:22 <hr/> G G 43:14 83:18 165:14 166:14 321:12 gas 28:9,12,13 78:16 215:11 316:1,25 317:6 gathering 15:24 gee 127:2 GEI 287:11 289:18 290:11 290:18 291:10 291:14 292:19 293:5,18,20 293:24 294:3 294:8,10,13 general 15:13 17:12,14,16 22:20 286:18 287:4,17,18 287:25 generalities 342:16 generally 18:7 20:2 22:5 36:14,21 158:3 159:8 196:13 gentlemen 66:15 getting 16:3 198:23 247:3 295:25 give 8:5 19:14 111:16 121:11 191:18 208:25 209:25 240:4
--	---	--	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

240:19 246:1 263:18 312:8 321:14 given 151:5 306:7,12,21 345:12,17 gives 261:25 giving 5:9 241:6 Glen 302:18 303:3 globally 22:9 go 4:20 15:13 15:23 20:2 47:23 48:3,5 58:25 59:9 61:1 86:16 88:8 109:1 115:1,4,5 118:21 124:2 124:24 125:15 158:4,6 218:7 220:4 226:9 229:2 247:1 247:16 262:5 268:21 285:7 293:16 304:23 309:19 322:2 335:13,15 341:9 343:10 344:1 goes 44:5 48:3 48:4 81:9 138:10 229:3 236:4 going 4:2 5:20 10:25 15:9 22:8 42:5 69:11,14 74:19 77:11 85:19 86:13 93:20 100:15 118:5 122:4 153:5 190:1 190:10,14	191:8,14 200:5 206:4 220:9 240:9 247:9 269:6 279:9 286:3 313:16 325:11 326:18 338:12 golf 119:23 golfing 125:16 good 3:9 26:15 39:19 55:20 101:23 111:18 140:17 186:1 186:1 191:3 195:15 201:14 203:7,8,8 206:8 277:14 gotten 314:2 333:18 govern 152:24 governed 136:12 government 88:2 321:8,24 governments 320:23 governs 93:25 grabbed 39:8 grammar 181:19 grandma 314:3 grandmother 114:24,24 311:21 312:6 312:17 grandmother's 311:25 312:21 grandparents 312:20 grant 87:25 gray 190:4 great 44:20 200:23 greeted 102:24 102:25	grief 185:25 grievance 42:4 91:9,16,21,25 92:16 93:15 95:4,20,22 109:5 141:12 141:17,18,24 141:25 171:3 175:4,5 193:4 193:22 194:8 195:4 197:1 197:20 203:5 203:10 206:25 207:2 219:13 224:23,25 225:11 226:12 226:20,24 227:12,20 230:19,22 232:6 233:8 233:11 235:11 235:11 236:9 238:18 316:18 316:19,24,24 317:2,3 grievances 107:18 243:15 243:24 grievant 221:25 222:19 236:5 ground 4:21 343:12 grounds 99:12 group 1:11,14 100:22 101:9 101:10 103:9 136:7 161:24 guarantee 168:2 guaranteed 164:6 Guarnieri 2:4 guess 6:11 36:1 44:9 54:9 123:16 133:12	154:3 171:23 195:15 205:19 213:21,22 246:19 249:4 279:24 300:3 322:12 336:14 guessing 128:15 guide 94:25 guideline 94:13 guy 95:16 120:17 121:11 174:10 202:11 229:24 guys 108:19,21 118:18 120:12 152:7 183:7 330:11	handle 201:18 handles 128:19 hands 102:24 102:25 handwrite 53:3 53:7 handwriting 12:11 43:18 53:1 60:21 61:1,12,16,22 68:23 135:22 135:24 136:2 138:23 282:20 287:13 290:9 290:24 handwritten 11:15,18,25 12:7,13,19 27:3 43:13 51:12,19 52:15,22 53:22 60:4 68:8,13,19,22 69:6,12,16 70:9 75:24 76:8 328:25 328:25 329:6 329:24 337:25 338:15 happened 72:4 happy 96:5 234:16 237:6 268:20 harassment 103:4,22 105:7 110:15 110:21 255:20 255:21,24 hard 336:5 341:10 Harding 165:14 166:14 Harvey 317:10 317:13 Haus 174:8,20
--	---	---	---	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

hazardous 99:12 100:1	231:1 246:2	333:9	59:2 303:2	342:13
hazards 84:8	252:18 253:6	history 124:18	hurt 119:5	identifying 78:2
88:19 99:8,18	254:9 313:25	281:9,16	126:2,20	79:13
head 6:5	317:14 335:24	283:15		identity 84:21
headquarters 54:18	high 110:8	hit 37:23 41:12	I	85:7,17 86:6
health 27:15	165:8,11,13	Hoffa 180:1	IBT 45:21	86:22 87:22
81:16,19 84:8	165:15,16,17	Hold 343:9	idea 170:19	88:14
84:10 88:17	165:19,21	holder 262:17	277:11 281:23	Il 45:20 143:4,5
88:19 104:21	311:3 312:16	holding 238:20	333:10	illegal 296:4,9
104:23 118:17	higher 38:19	holds 212:4	identification	Illinois 2:16
130:9 150:15	262:5	holiday 130:20	7:15 8:17 9:20	Immediately
150:22,23	highest 143:1	holidays 61:6	11:8 13:5 14:8	144:5
151:11 152:6	143:12	home 47:19,23	43:9 59:22	impacted 129:9
180:18 183:25	highlight 84:20	47:25 48:2,8	62:6 65:7	impart 338:21
184:4 188:14	highlighted	48:12,13,22	76:23 80:3	339:12
188:18,25	60:15,16 80:9	49:3 116:7	83:10 98:7	imparted 129:2
242:25 257:8	80:17 84:7	341:15	131:11 135:14	important
258:11 293:21	98:12 186:20	honest 339:6	152:12 159:17	18:25 19:6
322:24 337:14	197:14,23	hope 295:24	167:10 175:17	improper 303:6
hear 20:12,17	217:1	horn 326:4	178:11 181:6	304:4,11,21
90:24 97:24	highlighter	horns 23:4,22	185:5 186:15	304:25
160:14 306:17	147:2,3	27:17 51:22	193:18 197:9	inaccurate
309:8	highlighting	63:16	204:23 209:6	278:3 281:5,8
heard 126:2	80:11 205:2	Hostetler 1:20	225:18 227:9	281:11 282:13
141:1	highlights	hour 47:22	228:6 232:21	Incarcerated
hearing 90:25	60:13 98:14	94:14,14	233:20 239:16	294:25
95:15	hindsight 248:6	336:6,15	257:25 259:13	inch 116:25
hearsay 90:23	hire 123:18	hours 143:1	260:20 270:24	incident 142:2
95:15 96:1	125:3 139:22	151:5,21	271:12 272:21	included
heavy 174:23	140:11 195:12	152:5 318:22	277:19 280:17	122:14 158:17
heck 91:4	213:15 222:12	319:2,5 334:5	286:1,24	281:24 289:23
Heights 62:20	224:11,12,17	334:15 336:3	291:6 293:12	includes
help 208:5	224:17 292:21	336:8,10,12	301:7 302:5	143:18
helpful 4:23	hired 42:2	336:23	318:6 320:16	including 140:5
78:22	91:11 123:14	house 311:7,10	321:4,19	140:9 148:22
hem 128:17	139:7 158:7	311:12 312:20	identified 25:10	163:10 332:2
Henschel 1:24	163:11 164:1	312:21,21,25	46:22 47:8	inclusive 139:8
345:5 346:13	164:4 169:9	335:10	53:24 54:6	139:9
hereinafter 3:5	170:2,20	Howland	79:16 113:12	incomplete
137:9	171:21 173:20	165:13,19	211:6 255:2,2	199:25
hereunto 346:6	173:24 202:7	how's 338:12	303:4 327:20	incorrect
Hewitt 128:22	202:11 210:19	HR 29:25 58:19	identify 7:9	121:21 145:19
hey 230:13	212:21 214:6	59:14 109:2	28:3 101:17	212:18,20,25
	215:9 319:23	239:24	153:6 165:7	213:2,16
	hiring 144:4	human 50:23	210:7 254:24	incorrectly 32:7



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

240:10 increase 140:9 incurred 4:6 13:21 14:2 indicate 240:14 274:18 indicated 31:23 245:24 267:13 287:19 indicates 142:19 176:1 176:7 186:23 indicating 66:13,18 176:5 235:10 266:1 indication 191:19 individual 46:23 57:20 101:5,13 102:6 113:19 115:7 177:10 187:16 221:2 292:4 305:25 individuals 9:13 24:20 25:6,10 46:6 119:20 121:14 122:7,11 183:20 210:20 224:9,14 254:25 282:2 327:20 industrial 23:3 23:21 37:20 307:1 infighting 190:9 influence 123:15 inform 80:22 information 6:12 10:7,12 10:25 12:10 12:13 13:18	15:19,23 46:14 48:25 53:25 60:9 84:16 87:16 97:17 99:11 110:10 172:19 178:24 202:10 206:15 216:8 228:18 277:2 281:25 282:8 289:23 296:23 301:18 322:5 322:17 323:1 323:7 324:7 324:17,20,24 327:21 328:1 336:1 338:22 informed 54:2 82:15 85:1 97:9,18 333:17 informing 82:23 83:3 initial 9:11 32:9 111:17 input 102:9 117:8 inquire 231:15 inquiries 191:20 inquiry 231:15 inside 60:7 133:21 134:1 232:5,8 inspect 85:19 325:11 326:19 inspection 80:23 86:13 326:2,6,8,9,25 instance 305:16 institute 304:6 instituted 303:6 instructed 169:10	insurance 13:23 14:3 150:24 173:5 173:8 293:22 337:14,21 insure 140:6 191:12 intend 309:14 309:19 intending 338:21 339:5 339:12 interacted 127:6 interaction 48:8 interchangea... 3:20 Intercorresp... 9:2 interest 39:21 305:21 332:4 interested 345:24 Interesting 211:2 internal 89:1,6 89:11 internally 270:18 International 45:21,23 interpreted 35:6 116:15 interrogatories 10:3,21 interrupt 103:13 interview 303:2 303:16,18,19 303:21 interviewed 303:25 333:11 interviews 163:8 introduce 7:8	209:13 introduced 271:2 inverted 28:13 investigated 99:9 Investigation 97:12,18 132:17 325:9 investigatory 303:1,16,18 303:19,21 involuntary 149:19 206:9 involved 102:9 111:10 172:9 172:22 177:6 177:11 183:3 183:15 187:20 247:12 325:12 involvement 81:15 in-house 24:24 24:25 25:5,6 66:22 69:20 339:9,13 in-person 325:16 irrelevant 304:17,23 issuance 128:20 129:9 129:15 Issue 23:16,19 24:3,6,12,23 25:7 26:5,9 27:9,13 28:21 32:12,21,22 34:2,8,12,16 34:20 35:1 38:1 43:23 45:11 50:19 51:5,18 52:13 54:5,7 64:4 65:22 67:8,17	67:22 70:24 73:16,22 75:6 75:13,25 76:9 76:13 77:7 82:20 85:10 93:9,11 101:15,20 102:15 103:5 103:8,22 104:1,10 105:7,17 106:2,19 110:15,21,25 113:14,21 117:6,13,19 117:23 118:2 118:13 119:10 119:15 128:11 134:13,18 175:9 198:22 199:5 227:21 247:12 249:3 255:16,21,24 256:6,11,16 256:21 257:1 261:22,24 262:3,24 issued 15:7 38:22 127:16 127:23 128:3 129:20 265:14 271:5 280:22 286:8 287:4 291:11 issues 13:16 27:15,18 33:4 33:10,16,18 33:19,20 37:22 41:11 41:11,12 47:22 63:16 72:19,20 74:7 74:10 77:18 77:22 78:3 79:6,15 93:18
--	--	--	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

111:21 129:13 134:22 135:2 135:3,7 208:6 226:10 247:13 247:15 270:18 278:24 325:13 item 13:20 132:13,14 items 18:23 33:8,11 41:23 61:5 105:13 105:21,22 132:2,7,10 248:13	92:25 126:3,6 126:15 143:11 143:15 168:2 169:2 194:22 195:6 199:6 199:14 201:23 202:2,16,22 210:9,14 213:4,5,10 216:24 235:15 236:19,20 238:10 240:12 240:17,20 241:2 246:18 247:11,13,19 247:22 248:1 248:2 249:19 267:8 280:25 329:18,21 337:5 jobs 173:16,22 204:3 333:12 job/annual 146:12 147:13 Joe 24:17,19 98:18 195:8 239:24 John 24:15 25:1 35:17 37:11 38:13 38:17,20 39:7 39:19 40:6,24 41:1 43:14 60:25 61:11 61:16 72:8,18 102:7,22 119:24 120:3 120:4 124:14 124:15 168:24 169:4,9 185:10 197:17 255:3 John's 41:2 120:1 join 139:10	Joseph 85:12 98:16 judge 87:25 88:5 July 1:18 65:17 158:7 171:21 174:25 212:22 319:24 jump 199:18,18 jumped 206:14 Jumping 155:22 June 45:24 162:10,13,16 167:22 184:13 184:23 185:9 185:12,22 186:8 279:3 320:9,10 justification 289:13 Justin 226:25 314:16,19 315:3	killed 120:2 kind 22:17,22 94:12 112:6 112:11 116:21 134:12 135:5 158:2 159:12 190:8,10 191:2 202:12 343:14 Kinko 16:5 knew 87:15 117:22 118:1 137:20 205:20 231:17,21 232:3 knife 301:24 knives 295:17 296:6 know 5:18,19 7:18 8:23 13:23 15:20 20:16,18,23 21:17 28:9,24 29:4,12 30:11 30:15,18,22 30:24 31:2,5,9 31:11 46:10 46:11,13,15 46:19,20 47:12,14,15 47:18 48:24 49:5,6,7,10,12 49:14,18,23 49:24,25 50:3 50:5,6,7,11,12 50:13,16 52:1 52:20 53:14 53:19,20 54:5 54:9,11,13,15 54:16,19,20 55:3,13,15 56:8,12,13,14 56:16,17,18 56:19 57:6,9 57:12,13,16	57:19,21 58:13,17 62:9 71:2 89:3,15 94:10 95:15 95:16 100:3,7 100:23 102:20 105:2 107:4,7 107:25 108:9 109:22 110:3 110:8,10 111:5 112:11 112:16,16 113:24 117:21 122:13,15,23 123:6,17 124:8,25 125:2 126:20 127:3 128:10 128:16,18 129:1,7,11,18 134:20,25 135:5 137:1 142:9 153:7 155:16 160:1 164:18 172:2 172:7,8,9,13 172:14 173:25 174:8,15,16 177:3,10,14 177:19,24 178:3 180:14 180:22 181:15 182:19 183:3 183:18,23 184:7 185:19 187:13,16,18 187:20,24 188:5,23 190:18 195:9 195:16 196:6 199:16 203:7 212:14 213:17 213:23 214:4 214:14,17,19 220:3,21
--	---	--	---	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

221:1,5,6,11	9:14 29:7,16	241:11	177:21 178:1	layoffs 4:5
228:17 231:14	29:20 47:6	laid 108:20,22	182:25 183:4	146:18 238:11
231:16 232:6	54:25 55:2,6	150:8 175:1	183:15,21	331:1
234:15 235:6	55:10 59:11	176:17,23	187:13,17,21	lazy 115:7
236:18 241:22	59:15 88:25	177:1,16	188:1,7,10	leads 86:2,19
242:22,23	89:5,10	180:25 182:17	layoff 31:3 56:6	88:11
245:9,22	109:12,16,18	182:22 186:9	72:1,3,12 81:6	leaking 51:24
246:3 247:9	109:19,20	187:6 195:5	104:11 105:11	326:4
247:18,20	110:6,7 118:1	202:11 206:12	105:18 106:5	leaks 23:7,25
249:17 250:14	118:4 121:14	279:13 319:24	106:25 107:6	326:5
253:13 262:4	122:20 129:13	320:2,5	107:14,22	learn 284:1
262:14,17	163:4,19	329:13	108:7 109:14	learned 90:19
263:11,12,13	176:17,19	LaMantia	109:25 110:5	252:6 254:2
263:22 264:2	182:17 183:14	239:25	110:12 115:20	265:3 342:9
264:6 266:15	187:6 194:21	language	117:9 133:25	learning 250:18
270:13 274:12	194:24 195:17	135:10 155:17	134:9 146:11	leave 39:12
274:15 275:11	195:22 196:19	155:18 157:2	146:11,13	40:24 41:1
276:11,19	210:13 213:23	157:3 277:10	147:12,12,19	72:17 75:9,14
277:9 279:9	214:23 215:1	late 52:20,20	147:25 148:1	180:22 184:6
281:21,22	272:9,16	125:16 127:5	149:19,21	188:21,22,24
282:2,4,11,21	273:11,19	162:16 267:4	150:3 176:2,5	292:8
288:21,23,24	275:18 277:4	latitude 233:16	176:13 179:7	leaves 39:18
289:25 290:1	299:19 322:14	law 128:6	180:19 181:13	40:5
290:5,21,25	known 124:3	300:13	181:25 182:5	leaving 39:10
292:14,15	K-Mart 300:20	lawful 3:1	182:7,13,14	41:16 104:4
294:6,24	302:15,19,23	lawsuit 21:15	184:1,5	105:10 180:10
296:10 305:8	303:2,11	111:8 131:20	186:24 187:1	283:22
308:22 309:5	304:2 305:9	200:19 253:3	188:15,19	led 85:14 86:9
310:7,14	305:15	296:12 300:18	189:3,6,11,17	87:19 285:12
311:9,15,16		301:12 302:8	192:1,9 193:2	285:19 305:1
311:18 313:9	L	305:11,13	193:12 206:2	left 34:4 41:4
313:16 315:1	L 9:7 43:15 51:8	317:13	206:4,9,13,17	41:10 48:20
315:2,4,9,13	66:10,10	lawsuits 300:20	207:4,6,15,17	52:4,7 66:2
318:12 319:21	121:7,8,8	lawyer 80:13	208:6 209:16	70:25 73:2
323:4,9,13,16	131:19 239:25	251:15,18	210:15,20	75:5,12
323:20 324:3	323:19,19,19	lawyer's 234:20	217:15,20	107:17 110:19
324:11,15,21	324:14,14	lay 29:13,17,24	218:2,13,19	110:23 114:23
325:2 326:14	label 65:13	30:4,7,16,19	219:9,23	116:6 199:8
328:4,7,10,13	107:5 280:24	31:1 49:8,11	220:12 221:18	199:11 200:10
333:7 341:10	labeled 136:24	49:20 50:2	221:19 223:15	201:12 284:12
341:13,14	287:17 288:4	54:21 55:1,14	226:10 228:12	313:21,25
342:9,24	labor 98:19	55:24 56:10	228:19,25	341:16
knowing 208:2	265:20 271:17	56:15,21 57:4	231:17 249:3	left-hand
342:7	273:24 274:6	140:13 177:4	315:16 331:5	227:17
knowledge 6:9	lack 140:13	177:7,11,17	331:17,19	legal 21:19



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

253:10 294:24 316:16 324:5 length 176:4,8 181:17,24 182:4,11 187:2 Lesicko 43:15 lesser 222:24 letter 45:15 52:17,19 63:20,23 64:24 65:15 65:17 67:12 71:7 74:18 75:1,3 80:18 80:20 81:9 82:9 83:25 84:1,6,15 85:16 86:5 89:25 96:5,16 96:19 99:10 111:25 113:8 131:16 132:8 132:13 149:4 157:6,10 175:24 178:15 178:21 179:6 179:19,24 181:10 197:15 203:1 205:7 205:23 208:13 208:22 217:24 218:3 219:1,3 219:6,19 224:1 232:25 235:22,24 237:5 238:6,7 238:15,17,20 251:2 291:13 293:17 322:18 letters 39:5 111:3,13 248:8,10 251:14 let's 5:16 21:20	24:9 26:6 32:19 37:3 81:10 92:6 102:7 103:12 113:11 127:12 131:5 139:25 142:4 143:21 148:5 151:10 153:13 155:7 155:24 175:7 208:17 209:8 255:13 280:7 298:12,16 315:19 328:17 level 22:20 195:17,22,25 libraries 335:6 335:17,22 library 335:13 335:20 license 224:21 310:6,9,12 Licensed 161:10 licenses 310:16 lie 113:25 lied 115:10 116:3 life 151:23 293:21 light 126:3,21 264:18 296:1 lights 23:4,23 27:18 33:1 51:23 118:21 297:7 326:4 limit 335:23 line 7:10 44:3 44:14 118:6 194:11 201:7 228:12 liquor 298:25 list 24:10 102:2 105:2 144:6,7 144:8,12,18	144:20 145:5 145:7 202:4 202:18 204:11 205:15,21 208:18 209:1 209:9,12,17 209:22 210:4 210:13,23 211:5,10,12 211:17,20 219:5 229:6 231:13 239:4 327:22 listed 66:9 132:3,8 161:5 161:19 210:24 211:20 213:24 214:5,15,17 214:24 224:15 283:19 288:16 331:10,25 332:5,11,17 332:22 333:2 listen 220:14 lists 145:14,24 146:4 148:19 238:9 249:21 litigation 21:11 26:12,17,18 98:12 128:14 little 21:20 22:9 85:22 92:2 94:21 100:16 116:23 125:1 129:23 130:18 153:11 158:4 191:3 198:2 live 312:12 lived 311:1 lives 311:20 living 312:5 LLP 2:12 load 159:6 loader 158:8,17 169:4 212:5	lobby 3:11 local 43:17 45:18 51:2 136:8,14,20 152:19 178:16 179:2 183:10 197:16 205:9 225:23 240:1 locally 54:17 located 50:25 location 78:25 116:19 locations 19:17 lock 38:19 logical 270:19 logically 237:24 long 34:14 122:13,16,20 198:8 206:13 311:1 325:19 327:3 340:6,9 longer 97:14,20 99:14 100:2 124:7 133:7,9 336:7 338:6 look 11:13,20 14:25 15:12 18:9 66:4 72:15 73:10 74:3 80:13 89:22 93:14 100:25 123:19 125:4 130:24 136:21 139:25 153:13 154:3 154:24 155:1 155:4,7 156:2 160:1 208:17 210:1,3 211:14 213:12 238:14 256:17 275:16 283:6 295:21 298:2 298:5 309:17 329:5 331:1	334:13,18 336:25 337:4 looked 15:5 69:2 93:7 212:2 looking 22:9 25:21 41:15 45:14 55:5,9 73:20 77:5 78:21 80:15 84:5 90:7 92:5 96:3 111:23 130:14,21 131:24 132:12 141:13 148:6 154:7,9 155:9 160:4,7 162:5 178:20 194:4 202:13 205:6 211:9,16 213:7,20 215:21 216:25 224:8 232:2 236:1 237:13 260:10 283:2 301:22 329:15 330:21 331:23 334:6 335:2 336:4,9,22 337:6 341:4 341:19 342:17 looks 61:4,13 70:5 154:12 167:22 199:7 257:2 258:9 260:11 280:8 290:3,4 lose 48:11 148:9,21 149:11,19 220:9 245:14 losing 220:18 245:18 loss 217:10 lost 150:9,10
--	---	---	---	---



1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
 Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

150:11 164:21 190:15 191:7 191:13 220:1 220:10 223:10 237:22 251:8 261:18 262:10 lot 23:14 41:13 94:20 110:8 128:24 195:13 196:10 199:19 202:10 204:17 220:15 223:6 247:15 249:21 264:13 267:5 267:11 270:13 329:16 lower 15:2 LPA 161:7,8,8 lucky 152:7 lunch 244:2 Luncheon 244:3 lying 114:14,16 114:21 116:13 116:16	mailed 52:17 66:25 113:8 209:1 mailing 62:19 62:23 63:2,5 63:10,11 111:25 112:14 112:17,22 234:7,9 maintain 18:2 304:6 maintained 19:17 150:4 180:17 303:6 maintenance 27:17 33:4,9 33:12,16,20 37:12,21 making 38:4 55:17 58:8 110:4 116:14 140:6 143:11 174:20 187:25 188:6 191:16 194:25 215:16 222:11 225:8 maliciously 303:5 304:5 304:16 man 118:4 management 43:25 45:13 46:17 47:8 53:17,23 54:3 56:4,24 57:2 58:1,3,10 59:13 102:9 122:3 140:1 140:15,23 141:2 153:14 manager 25:16 25:20,20 29:21,23 30:4 30:6 31:16,19 54:14 55:19	55:23 56:3 98:18 107:11 107:13 109:2 123:10 125:14 169:15,20 239:24 240:1 265:24 managers 343:16 manger 119:22 manipulations 206:11 Maple 62:19 March 7:25 8:11 129:20 130:23 178:5 178:16 179:9 179:14,24 180:3,8,24 190:24 212:12 243:23 249:24 264:25 265:12 265:19 271:6 320:4 marked 7:14,18 8:16,20 9:19 9:23 11:7,11 13:4,8 14:7,11 43:8,12 59:21 59:25 62:5,9 65:6 76:22 77:1 80:2,6 83:9 98:6,10 131:10 135:13 135:17 152:11 152:15 159:16 159:20 167:9 167:17 175:16 175:20 178:10 178:14 181:5 181:9 185:4,8 186:14,18 193:17,21 197:8,12 204:22 205:1	209:5,14,21 225:17,21 227:8 228:5,9 232:20,24 233:19,23 239:15,19 257:24 258:3 259:12,16 260:19,23 270:23 271:3 271:11 272:20 272:24 277:18 277:22 280:16 280:20 285:25 286:23 287:2 291:5,9 293:11,15 301:6,10 302:4,13 318:5 320:15 320:19 321:3 321:18,22 Market 2:6 marks 197:23 married 307:20 307:23 material 84:4 247:7 263:17 289:10,19 342:9 Math 308:15 matter 16:9,11 16:11 232:15 233:13 240:22 matters 248:23 249:4 250:23 269:1 maximum 151:22 152:3 McArdle 2:13 3:10 106:7 118:5 131:5 131:13 149:25 160:16 197:4 207:22 214:7	214:9 244:1 248:1 286:3 286:14 338:8 338:11 344:2 mean 3:24 7:2 15:17 17:15 34:9 37:22 40:22 64:17 67:23 104:19 124:2 125:9 125:25 134:24 136:16 158:22 177:23 188:8 194:23 195:13 195:25 196:4 199:17 201:6 213:16 219:7 219:21 221:24 222:23 246:14 270:12 275:21 278:8 282:5,9 288:2 295:25 304:11 306:10 313:23 317:19 334:24 337:16 338:9 340:19 meaning 6:3 9:12 110:1 118:13 150:11 173:3 means 4:25 164:5 168:4 170:8 meant 110:17 110:21,25 137:16 217:19 217:25 218:11 218:17 229:23 238:6 252:4 mechanism 269:25 medical 13:22 257:19 258:21 259:4 260:12 261:11 337:20
M M 9:7 66:10,10 120:23 121:7 121:8,8 131:19 239:25 machine 69:24 70:4,10 116:19,22 mad 104:5 mail 52:15,19 65:25 67:2,3,4 67:6 112:5,10 197:25 203:1 239:23 242:9 313:3,18 332:6 mailbox 75:17 75:18,23 76:7 253:25				



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

medications 6:22 Medlock 131:19 meet 333:22 339:21 340:3 meeting 102:22 104:4 105:6 105:10 110:18 113:24 114:5 114:12,13 115:11,15 116:4 196:24 198:3,5,9,15 198:21 199:3 199:10,24 200:9 201:10 202:15,24 204:1 205:12 205:16 206:6 207:7 209:18 222:14 227:23 229:17 234:22 235:2 240:21 240:23 241:23 249:6 meetings 247:8 member 43:24 45:12,19 46:17 56:3,24 56:25 57:2,3 58:1,3,9 59:5 92:23 136:19 254:16 members 46:6 membership 45:18 243:17 249:22 250:12 252:24 262:23 263:3 274:5,9 276:11,15 memory 111:17 mention 229:11 233:6 236:15 mentioned	37:15 38:12 88:23 89:25 113:18 124:13 168:24 192:19 196:23 325:4 merchandise 230:1 231:3 merchandisers 137:8 142:12 144:9 151:4 151:12,20 152:4 204:16 211:7 merchandising 143:19 222:14 229:12,19 230:16 233:6 235:15,23 236:16 237:24 238:3 240:13 241:2,7 246:10 248:11 253:9 Merl(sic) 121:3 Merrill 121:6 122:15 message 313:25 314:4 messages 114:23 116:7 313:21 messed 112:6 messing 313:13 met 3:10 Michael 2:5 66:10 101:21 102:8 161:5 228:16 252:20 302:10 Michelle 9:3 micro 116:23 middle 151:14 Mike 13:12 24:16 25:2,3	50:19 63:12 80:8 149:25 150:20 186:20 197:18 214:7 223:19,23 228:11 238:5 255:3 293:16 military 310:20 mind 112:15 250:7 mine 11:19 127:6 338:4 minute 91:6 254:10 minutes 3:11 34:17 334:15 334:17,22 338:12 340:10 Miranda 295:2 295:5,11 297:18 Miscellaneous 60:22 misclassifying 41:20 misdemeanor 166:22 167:4 misleading 114:4,6,7,10 mismanaged 270:16 misrepresent... 163:5 289:11 289:20 misrepresent... 163:21 misrepresent... 263:13 missing 145:3 181:15 misspoke 190:25 mistake 94:8 misundersta... 252:19	misunderstood 74:25 Modic 274:17 275:17,23 moment 38:9 225:3 moments 77:12 Monday 36:10 36:23,25 186:25 336:16 336:18 money 120:17 249:23 261:25 262:24 270:15 312:7 month 129:24 189:12,14,16 189:19 257:19 259:4 260:14 330:20 monthly 248:19 months 133:6,8 133:10 138:7 145:16,24 262:18 291:20 293:6 319:11 319:16,20 moot 243:25 morning 3:9 4:24 36:4 125:22 126:10 126:17 127:1 127:5 mortgage 311:17,19 mother 316:12 move 312:19 moved 312:13 312:17,22 Moyer 121:4,6 125:23 126:10 327:23 328:6 mrossi@gsfi... 2:10 multipage 60:3	multiple 11:12 37:19 241:10 <hr/> N N 9:7 122:25 179:23 239:25 312:4 name 3:10 4:9 4:14 9:4 88:22 89:2,7,12,24 90:6 124:11 158:13 190:7 205:20 311:14 311:16 312:1 323:23 326:13 named 123:10 325:4 345:8 names 102:8 National 271:16 nature 168:8 193:25 194:6 nearly 217:9 237:20 necessary 18:20 need 6:2 8:4 27:16 33:6 78:17 85:22 102:4 160:20 210:3 231:14 246:6 247:16 needed 18:8 247:5 needs 95:13 236:6 Neff 281:1 Neff-Perkins 280:11,22,24 283:18 284:1 284:11 285:4 285:12,21 286:8,17 287:21 288:12 negotiated 139:16
--	---	--	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

negotiations 190:21	268:15,25 269:7 272:14	131:2 148:25 149:3 157:5	337:23 339:9	84:10 88:17
neighborhood 257:19 259:4 260:14 313:12	273:1,16 275:24 276:6	160:25 164:11 204:12,12,18	numbered 138:2 224:10	occurred 18:4 47:4 129:8,14 142:2 249:15
neighbors 120:3	nonvested 293:1	228:18,24 242:8 253:21	numbers 28:15 28:16 79:7 211:6	occurrence 141:21
nervous 93:12	noon 127:5	253:22 257:6 258:5,11	O	occurs 259:25
never 44:25 111:1 119:5 137:20 161:11 164:12 167:2 235:1 236:20 238:5,11 239:10 247:6 253:6 261:23 262:1,3,5,24 262:25 281:17 287:21 289:24 294:14 300:8 300:15 310:19 318:21 319:2 336:20	Nope 67:14 normally 81:22 NORTHERN 1:4 notary 10:24 268:22 345:5 346:13 notation 78:24 note 34:4,5 38:16 39:11 41:10,17 43:13 52:4,7 52:11,23 61:13 64:24 68:19 69:21 70:9,17 72:18 73:15,21 74:6 74:9,13 75:5,9 75:13,14,24 76:8 239:6	noticed 77:18 notices 128:20 notified 82:24 83:4 84:11 250:9 279:13 notifying 149:2 notwithstanding... 251:6 November 139:8 233:25 240:25 241:4 241:6 243:18 243:21 250:5 250:6,17 258:6 259:20 263:4 273:24 275:12	O 9:7 31:24 32:8 43:15 51:8 83:18 120:23,23,23 121:8 122:25 131:19 323:19 323:19 oath 4:25 10:22 234:18 245:5 285:10,17 306:8,12,21 307:5,10 Object 246:25 294:19 304:17 objection 284:19 290:14 295:6 304:22 341:8 obligated 278:22 observed 72:20 obtain 165:17 obviously 73:1 86:25 104:21 124:1 214:21 223:6 249:13 249:24 253:3 253:11 276:17 342:8 occasion 41:9 41:16,19 296:20 297:19 303:1 317:6 occasions 241:10 265:25 295:4 Occupational	October 61:14 98:15 99:4,20 107:1,14,21 108:6 109:15 109:24 110:5 110:13 111:14 111:18 171:24 217:15,21 218:2,14,19 219:10,24 221:19 223:15 225:12,23 226:12 228:11 228:19,25 229:1,9 233:1 234:23 235:2 236:14 238:15 238:16 240:14 240:19,21,24 241:23 243:4 243:10 252:22 262:21 279:5 279:14,21 289:5 292:21 302:25 303:22 331:19 333:12 333:15 337:3 337:8 342:20 odd 88:15 offense 201:5 offer 163:9 221:17 223:5 225:8 240:12 240:17,20 241:2 246:10 246:17,21 offering 223:4 231:4
new 138:3,21 157:18,19 204:12,14,15 204:15,16,17 208:9 212:11 222:12,12 233:15 236:21 265:15 278:15 279:10 330:18 336:23 343:14	notebook 70:4 329:1 notes 11:15,18 11:25 12:8,13 12:19 39:19 40:6,24 41:1,4 41:5 60:4 61:9 63:12,14 329:6 337:25 338:16,20 notes/reports 60:22,23 notice 10:23 20:10,14 21:6 88:18 127:15 127:23 128:3 128:11 129:10 129:15,19,24 129:25 130:3	number 13:20 42:18 71:3,9 71:12 78:25 79:8,10 91:9 91:16,25 126:7 148:20 151:4 156:6 156:17 161:1 162:4 211:11 212:6 225:1 253:15 274:25 286:12 287:18 290:3,4 301:12 302:16		
Nicastro 119:21 122:25 123:22 125:17 126:22 212:8 315:20 327:24 328:15				
night 127:1				
nights 43:5 126:19 170:11 170:18				
nine 319:20				
NLRB 268:4,6				



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

offers 333:14	123:12 131:6	operating 89:1	87:20 88:11	179:17 209:12
office 62:17	138:24 142:10	operation 23:3	89:1,5,6,11,12	210:21 211:4
112:9 113:2	145:1 153:10	23:21 140:3,8	89:14 90:20	211:18,23
234:20 251:19	154:9 155:22	operative 23:4	91:1,6 95:8	217:2 224:9
officer 297:4	156:21 157:21	23:22	96:12,14,22	224:10,14
officers 273:25	157:24 160:17	opinion 18:15	97:3,8,17 99:1	236:3 237:17
offices 1:19	161:3,15	18:16 114:21	99:11 100:3,6	245:11 258:9
officials 190:5	162:16 164:2	opportunities	131:17,22	258:20 260:11
303:3	164:17,19	310:4	132:3,4,8,10	261:11 282:11
off-site 25:4	167:18 178:19	opportunity	132:16 134:14	288:3,8,25
51:3	180:16 189:20	95:2 110:22	134:19,21	289:1 290:3,4
oh 5:19 44:16	191:17,19	151:6 222:1	135:1,6 195:8	292:17 301:14
69:18 70:8	194:9,12	222:19 224:7	324:20,23	303:14 327:18
79:2 99:3	200:21 207:25	236:25 238:12	325:5,9,14	339:8
103:3 126:23	214:13 216:2	247:23 256:2	OSHA's 99:25	pages 8:2 60:6
127:2 143:23	230:23 234:2	262:20 326:11	132:1	329:1,3,8,10
150:21 156:17	238:21,23	327:1	outside 118:22	329:19,24
161:8 175:9	239:9 247:3	opposed	232:10	paid 36:13
178:18 200:25	251:4 255:12	132:15	outstanding	48:18 91:13
230:23 276:4	274:16 278:18	oral 339:9	65:19 243:15	91:14 92:7,19
276:10 278:19	280:8 283:10	order 160:13,24	overtime 36:11	93:3,14,19,23
280:7 283:13	288:6,9 302:1	282:12	36:12,15,21	94:6 112:8
288:6 298:7,9	306:2 320:1	orderly 140:7	41:12 93:17	121:17,18,23
328:19 338:5	329:3,7,9	orders 158:18	owed 294:1	138:21 142:25
339:4	331:21 338:14	158:19,23,24	owned 311:10	154:20 193:13
Ohio 1:4,23,25	338:19	159:1,3	311:11	198:12,23
2:8 20:9 21:5	old 157:18,19	195:18,22		200:5 203:10
62:18 299:23	157:23	196:1,2,10,19	P	242:20 257:12
302:17 307:15	omission 163:6	ordinary 67:3	packet 338:1	257:14 261:7
307:16,17	289:11,20	112:5,9	338:18	265:8
310:23 320:24	once 112:19	organization	page 10:13,14	paper 39:9 53:4
321:8,25	183:24 184:3	101:13 273:25	13:19 20:20	70:4,13 159:6
334:4 345:3,6	191:5,11	274:6	60:5,19 61:13	316:14
346:14	241:3 295:8	originals 66:17	61:15,19,20	papers 17:22
oil 33:2 51:24	ones 238:25	OSH 81:12	61:23 65:16	178:6 342:10
326:4	317:7	OSHA 24:16,20	88:16,22	paperwork 16:6
okay 3:21 4:7	ongoing 37:14	25:12 76:12	89:19 90:8	17:12,13,16
8:7 12:2 13:14	37:16 38:5	76:16 77:3,8	137:23 139:25	17:19 130:6
20:4,5 21:25	104:20 190:21	79:4,13,16,19	148:22 149:17	184:24
22:1 23:13,14	open 21:18	81:4,20,22	150:16,17	paragraph 44:9
24:4 44:20	38:18 216:4	82:6,7,13,14	151:10 154:4	44:10,17 45:4
55:6,10,11	216:10,16	82:18,22 83:2	155:21,24	45:15 77:7
58:12 107:9	260:8 298:10	83:13 84:11	156:14,15,16	81:10,11 84:6
107:20 109:22	299:25 335:20	84:25 85:5,14	160:4,8 162:6	84:19 96:4
112:2 118:7	opening 213:6	86:3,10,19	166:21 168:21	99:6 151:15



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

163:24,25 167:25 179:5 217:3,7 236:3 237:17 273:22 274:24 275:1 275:2 276:2 301:22 302:25 303:17 paraphrase 240:9,10 parens 148:10 parents 312:15 312:20,24 part 16:23 20:13 26:12 41:24 60:2 90:1 103:9 107:8,10 108:1,6,9,14 108:18,25 109:3,13 139:6 141:16 142:21 144:2 148:6,7 150:24 183:11 208:22 247:19 247:22 282:18 282:22 283:7 Partially 94:1 participate 249:19 343:19 343:22 participated 30:25 31:12 31:19 50:1,14 56:20,22 57:3 57:22,24 58:4 58:14,16 59:3 59:16 103:18 115:19 303:22 Participating 117:8 participation 136:13 293:21 particular	112:20 305:15 parties 275:4 parts 318:12 party 91:2 128:19 264:3 303:5 345:24 pass 46:21 47:7 53:21 passed 46:16 53:15 120:2 208:14 239:10 245:23 316:13 passing 217:9 237:21 pattern 40:15 40:20 pay 38:19 41:21 42:3 48:11 92:22,25 93:18 94:9,10 95:14 96:2 120:8,13,14 121:1,3,4,10 121:15,21,22 122:14,17,21 124:23 142:5 189:18,21 208:6 212:9 262:18 312:5 paying 42:8 190:19 248:18 257:11,18 259:3 260:13 261:13,22 262:20 313:10 payment 61:8 175:10 258:13 payments 261:12 payroll 61:9 64:25 65:19 65:22 67:7 72:19 73:16 73:22 74:7,10 121:19 192:10	192:12,13,16 242:15 267:24 322:8,11,13 pen 39:9 146:21 147:5 164:21 205:3 penalties 134:21,25 135:6 penalty 5:1 10:22 11:3 301:18 pending 36:1 106:12 people 5:19 47:23 94:10 110:8 119:1 121:23 174:6 174:22 192:23 200:10 201:11 202:7 204:5 208:9 213:9 288:22 289:25 314:15 343:19 Pepper 1:11 100:21 101:8 139:21 161:23 258:5 259:18 260:25 Pepper/Seven 1:12 101:9 Pepper/Seve... 136:6 perceive 153:8 153:17,25 performing 71:21 195:6 210:8,14 280:1 period 38:6 136:8 138:8 138:15,20 144:12 149:20 150:4 151:2 152:20 164:6	165:22 171:10 171:15,18,23 172:4,11,17 172:25 173:7 180:19 181:15 206:18 207:9 231:24 235:13 236:9 258:12 258:22 260:6 261:8,13 264:17,22 279:17 293:6 331:16 337:2 337:7 342:19 343:3 periodic 274:8 periods 139:13 166:1,5 263:8 perjury 5:2 10:23 11:3 301:18 perk 124:1 Perkins 281:3 permanent 104:11 105:10 105:18 106:5 106:25 107:5 107:14,22 109:14,16,18 109:25 110:5 110:12 115:20 117:9 146:11 146:13 147:12 147:18 193:2 206:2,4,13,17 207:4,15 217:14,20 218:1,13,18 219:9,13,23 221:18 223:14 228:12,19,24 331:16,19 permanently 108:20,22 207:5	permit 225:8 permitting 265:21 perplexed 92:3 person 47:9 48:4 53:24 54:6 71:22 101:17 125:18 168:10 186:2 211:11 322:18 personal 6:9 29:15,19 47:5 54:25 55:2,6,9 55:12 59:11 59:15 109:12 109:19,20 110:6,7 117:25 118:3 122:20,22 129:12 176:16 176:19 180:21 182:16 183:14 187:5 188:24 194:20,23 195:17,21 196:19 210:12 214:22 255:17 288:20 Personally 59:18 personnel 49:1 122:1,4,6,10 215:13 280:23 285:5 286:11 287:6 291:12 292:18 pertaining 285:6 290:13 329:18 pertinent 228:18 phone 71:3,9 71:11 76:15 97:10 111:4 130:2 162:2,3
---	---	---	--	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

162:4 246:1 269:21 313:21 317:17,21 photocopied 60:14 photocopy 69:23 70:7,9 physically 133:3 279:4 279:20 pick 136:20 309:18 picked 6:6 269:21 picky 171:25 pipes 118:20 pissed 190:18 place 37:8 38:20 85:19 92:25 151:22 199:19 317:8 345:20 placed 4:24 39:24 40:3,11 42:9,13 48:25 76:6,8,15 80:12 150:3 159:4 186:24 306:11,21 307:4,10 placement 231:12 placing 158:20 plain 295:19 296:2,6,7,8 plaintiff 1:8 2:3 10:3 13:21 303:8 plan 151:7,21 152:6 257:8 259:18 266:17 309:11 planning 323:22 324:4 plans 310:1	plant 236:18 278:25 279:2 279:5 315:21 plant-wide 144:10 145:15 146:1,9 147:13 205:21 211:5,9,17 229:5 231:12 239:3 play 325:8 please 4:9 5:14 6:15 11:20 12:18 14:18 15:16 19:2 20:15,23 28:18 30:17 33:14 36:19 42:12 51:9 54:1 55:7 62:15 67:18 73:25 74:12 75:11 82:8 83:1 89:4,22 90:9 97:15 99:20 106:8 106:16 113:17 117:15 122:8 124:25 132:6 133:23 137:1 141:6 142:8 146:22 155:20 156:3,6 159:25 160:6 160:20 162:22 165:7 166:2 171:11 173:13 173:18 177:18 182:1 184:2 187:12 188:17 191:10 192:5 207:23 209:8 210:5,7,21 214:9 216:17 217:22 229:16	230:7 231:21 241:17 243:7 245:8 246:7 251:17 256:7 289:8 311:9 315:2 322:3 326:1 328:18 332:23 plus 39:13 70:5 120:7 190:20 249:22 PNC 1:21 pocket 13:22 14:2 point 6:21 26:16 78:21 95:17 150:12 167:1 200:1,9 201:11 206:12 206:23 254:7 262:13 265:10 266:5 295:18 303:11 points 203:9 pole 37:24 police 134:16 297:4 policies 89:16 94:2,4 policy 41:2 politely 196:15 poor 269:23 pop 196:16 portion 12:20 15:2 61:15 138:10 155:10 160:19 163:12 217:1 257:12 302:8 337:24 338:16 portions 60:15 80:9 186:21 197:14 position 45:17 92:18 109:9	109:11 114:11 125:21,24 146:14 147:19 180:4,5 186:4 192:24 203:4 203:15,22 204:2,9 206:1 206:1,24 208:15 212:4 213:7,8 216:4 216:5,10,16 216:22 220:22 221:2,3,7,12 222:13 229:12 229:19 230:16 231:3 233:6 235:23 236:16 237:8,25 238:3 240:13 241:2,8 246:11 248:12 253:9 285:10 333:20 positions 110:9 114:7 215:17 possession 296:19 297:10 possibility 217:11 possible 49:9 50:4 54:22 55:25 56:1 67:10 80:24 81:21 180:12 267:1 271:19 282:21 290:10 290:25 295:9 297:24 298:17 300:23 314:5 possibly 223:24 224:4 306:25 313:19 post 62:17 72:17 112:9 113:2 213:4,5	213:9 215:17 216:5,9 243:4 243:10 postcards 330:3,7 posted 73:11 74:5 126:6 144:11,18 221:16 posting 144:19 216:15,21 Potts 1:7,17 3:1 3:7,9 4:10 43:18 53:10 59:8 80:12 131:14 200:14 214:12 215:23 220:13 238:13 245:2,4 274:3 275:5 338:15 power 39:16 powered 23:3 23:21 practice 39:16 40:15,20 69:5 164:14 practices 89:16 practicing 161:10 preliminary 7:8 premiums 257:12 preparation 339:18,22 prepare 340:4 340:15 presence 345:14 present 34:6,9 141:19 288:16 presented 13:16 presently 161:21 presents
---	---	---	---	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

326:10 president 168:7 168:12 presumably 102:10 pretty 34:21 51:21 104:4 120:4 169:16 199:21 200:3 200:12 339:3 pretyped 72:19 73:15,21 74:6 74:9,13 76:2 205:10 208:12 prevail 146:19 155:15 203:9 206:25 prevailing 143:1,12 207:1 prevails 148:2 prevent 7:4 149:1 previous 154:23 printout 330:3 330:5 prior 71:6 133:1 133:14 145:1 153:19 155:18 155:19 156:4 157:4 205:12 280:10 286:17 312:12 priorities 80:25 private 46:14 188:22 privilege 122:12 privileged 172:18,20 probable 303:8 probably 88:2 96:6 111:14 111:15 115:19	118:24 126:7 126:7 133:17 148:11 243:19 306:14,15 319:8 336:7 338:11 341:23 342:22 343:15 probation 171:4 probationary 137:24 138:15 138:20 151:2 170:24 171:2 171:10,15,18 171:22 172:4 172:11,17,25 173:7 175:11 293:1,7 probe 85:22 problem 37:12 37:15,21 38:13 124:2 problems 32:25 185:25 313:11 procedure 3:3 10:20 126:5 232:7 procedures 89:1,6,11 141:12 process 93:15 109:5 266:20 processing 268:18 produce 67:23 produced 26:1 67:15,19 68:21 80:7 98:11 131:16 175:25 178:15 181:10 186:19 197:13 205:2 205:4 252:10 258:4 259:17 260:24 277:25	product 158:19 158:20 159:3 159:4 195:23 production 60:2 Professional 1:24 program 260:13 309:23 310:2 programing 129:17 programs 293:22 308:20 promise 338:13 promote 140:12 prompting 343:5,6 pronounce 9:4 323:23 proof 146:6 properly 78:18 protected 81:15 protection 81:13 232:9 276:12 300:16 protest 226:23 227:1 proved 203:13 203:21,25 proven 145:18 provide 10:4,6 15:14,24 19:12 67:24 145:14 268:16 278:22 330:4 339:5 provided 3:2 11:1 12:11 39:21 77:3 139:13 228:17 275:20 provides 13:17 81:12 providing 5:6	7:4 10:11 53:24 60:8 66:19 proving 202:21 203:3,6,9 provision 138:4 PSK 334:1 public 33:22 134:13 166:18 215:4 297:14 298:3 345:6 346:13 pull 15:11 68:17 245:7 328:17 pulled 25:22 159:2 169:1 297:7 pulling 158:18 purportedly 304:5 purpose 80:20 112:13 166:10 purposes 7:15 8:17 9:20 11:8 13:5 14:8 15:25 18:12 26:18 43:9 44:22 59:22 62:6 65:7 76:23 80:3,10 83:10 98:7 102:3 131:11 135:14 144:21 146:10 152:12 159:17 161:23 167:10 175:17 178:11 181:6 185:5 186:15 193:18 197:9 204:23 206:22 207:19 209:6 225:18 227:9 228:6 232:21 233:20 239:16	257:25 259:13 260:20 270:24 271:12 272:21 277:19 280:17 286:1,24 291:6 293:12 301:7 302:5 314:22 318:6 320:16 321:4 321:19 pursuant 10:19 10:24 pursue 236:5 268:24 309:11 put 20:15 49:5 53:9 66:16 75:17,18,22 75:23 126:2 126:21 171:23 197:23 209:11 282:8 286:4 puts 49:5 puzzled 91:10 93:12 P.L.L 2:4 p.m 36:16,16 36:22 158:14 P.O 2:7
Q				
qualifications 146:16 147:21 229:18 qualified 222:16 229:14 229:21 230:2 230:14 231:3 237:4 259:24 260:5 345:7 quality 295:24 quantitatively 338:10 question 5:9,12 5:17,20,23 6:4 6:15,18 8:9				



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

15:12 26:25 28:18 29:3,10 30:2 40:17 55:7,11 57:15 58:12 59:10 60:7 62:15,24 65:20 68:15 76:4 78:20 85:4,21 89:4 89:18 90:8 93:21 94:21 96:8 101:3 106:8,10,13 106:16 109:11 110:3 116:1 119:12 133:19 136:17 137:21 142:7 153:24 154:24 160:20 164:20 169:3 173:13 182:9 183:13 187:12 188:2,4 192:3 192:6 201:3,8 203:18,19 204:18 207:3 211:16 212:23 214:3,11 215:22,25 219:16 220:25 225:13 227:3 229:16 231:11 231:20 251:12 254:6,23 258:10,18 264:21 269:7 269:24 284:22 284:23,25 285:16 294:21 299:17 311:9 313:15 315:2 321:6,23 323:12 330:17 339:3 341:19 343:11	questioning 7:10 118:6 293:20 questions 4:3 5:5 6:25 7:5 10:8 15:9,22 20:1,17 55:4,8 198:5 214:10 267:6 287:20 295:25 344:3 quickly 111:23 283:11 quit 284:4 quite 165:6 quote 190:7 196:17 304:11 R R 26:24 32:8 83:18 120:21 120:23 121:7 121:7,8,8,8 122:25 179:23 192:4 312:4 324:14 raise 227:21 raised 50:19 54:7 132:4,10 135:2,8 207:13,14 307:18 325:13 raising 33:19 134:22 255:15 256:5,10,15 256:20 257:1 ran 315:25 rank 219:5 224:2 236:18 238:8,8 rate 38:19 41:21 42:3 94:14 121:21 142:15,16,17 143:1,2,3,4,5 143:12 154:20	rates 94:9 95:14 121:12 138:22 257:13 265:8 ratified 199:7 212:12 ratify 190:22,23 rationale 269:18 reached 253:25 reaching 110:11 read 32:6 44:5 45:25 81:1,25 82:10 84:16 96:5 99:14,21 106:9 137:11 138:10,25 139:18 140:16 140:18 141:21 142:6,8 143:5 144:14 145:19 146:20 149:5 149:21 151:8 151:24 153:7 153:16,19,24 155:14 162:23 163:11 164:11 165:6 168:13 168:17,19 169:2 179:10 181:18 187:3 207:23,24 217:16,24 222:11 231:5 236:3 237:16 246:8 272:7 272:10 273:9 273:11 274:9 274:22 289:8 289:15 295:1 295:5,11 297:18 reader 338:22 338:24	reading 139:20 140:21 142:11 149:24 153:4 164:15 182:10 274:21 339:1 339:2 342:10 342:12,15 reads 139:6 145:12 149:18 168:17 real 116:25 208:5 realize 62:1 161:16 251:13 realized 242:12 251:21 252:14 253:18 really 58:11 59:10 74:8 77:5 127:13 158:12 161:13 161:14 174:16 185:16 200:1 201:18 207:21 207:22 211:16 214:11,11 220:13 243:13 247:3 274:15 290:5 298:3 307:2 320:19 reason 6:24 73:14,18 84:24 85:5 106:22 112:20 164:9 168:6 250:21 256:3 256:8,18 257:2,3 283:21 337:9 reasons 72:14 73:12,19 74:1 110:14 274:7 reasserting 105:22 reassigned	143:10 213:11 reassignment 154:18 recall 28:7,17 41:16 42:19 48:10,16,22 48:23 49:2 52:19 60:8 64:10 72:25 79:21 82:22 83:2 87:4,8,9 90:16,17 97:14,16 124:10 133:5 146:11 147:12 164:12 171:20 174:6,19 180:7,11,13 180:18 184:9 184:15,16 190:13 191:6 191:12 198:10 208:3 255:10 263:10 265:16 271:19 292:6 295:5,7 296:4 298:1,3 299:6 299:9 300:22 300:24 304:8 306:25 307:2 310:10 311:3 312:23 313:1 325:21,25 326:13 330:19 333:24 334:2 recalled 114:1 116:6 178:4 179:13 180:2 180:3 184:12 184:22 185:22 186:3 190:1 192:20 320:4 320:9 receipt 63:9,20 67:13 73:11
---	---	--	---	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

73:20 74:5 77:16 80:21 258:8,13 261:5,6 265:2 receipts 62:12 62:14,17 63:1 63:7 64:1 72:16 receive 112:3 113:1 121:1 125:8 171:8 171:13 234:3 234:8 235:20 240:2 242:2 248:7 270:6 333:14 received 15:19 17:1,3,8 54:4 60:1 82:2,9 84:3 88:18 96:22 97:10 99:24 113:3 124:22 129:25 158:24 189:8 192:25 197:22 202:18 204:10 205:15 209:17 209:23 217:24 228:24 246:2 246:8 248:9 251:13,21 252:6,16 253:20 257:6 260:3 280:21 287:3 291:10 receiving 96:18 97:16 121:15 122:16,21 130:9 189:1 191:24 192:21 195:18,23 196:3,20 261:16 263:6 265:17 267:12 313:3,17,21	recess 131:7 244:3 recitation 241:15 recognition 137:5 recognize 9:24 61:16,21 recognizing 132:1 recollect 79:17 recollection 34:24 78:1,7 78:14 90:9 179:13 185:11 185:22 198:8 210:4 259:3 271:25 295:23 298:6 301:23 record 18:3 65:12 106:9 142:7 153:5 164:23,24 197:4,5 207:24 258:13 282:18 286:4 295:22 297:14 recorded 88:2 317:16,20,24 records 70:1 121:19,20,23 145:17 146:5 280:23 284:1 287:6 291:12 298:3 321:13 322:11,13,19 329:17,22 recounted 191:14 recourse 138:9 232:6 recovery 305:25 red 186:21 199:21 205:3	reduce 141:18 reduced 345:13 refer 3:19 23:15 35:22 278:14 reference 28:16 161:22 referenced 122:7,11 207:4 210:17 326:21 references 100:11 161:4 161:25 281:10 281:20 288:21 289:25 292:7 referred 24:18 33:7,15 42:17 119:16 137:9 137:16 141:2 181:24 182:5 182:12 218:21 276:14 277:12 referring 17:17 17:20 23:20 24:7 25:1 27:8 37:17,19,25 47:20 52:25 64:16,22 65:2 65:11,22 77:22 94:7 107:1 114:9 143:16 157:15 175:6,10 176:13 189:21 194:17 231:23 255:25 270:11 278:12 303:17 322:20 324:24 refers 13:15 170:15 181:12 reflect 77:7 132:3,9 refresh 78:1,7 78:13 179:12 185:11,21	210:4 271:24 301:23 refreshes 259:2 refund 243:21 refunded 243:22 249:23 250:10 262:23 refunding 250:19 refusal 289:13 refused 234:13 regard 95:14 104:17 237:4 256:13 regarding 27:16 44:3 64:25 65:18 171:3 179:7 198:23 228:18 232:15 247:10 247:14 330:1 regardless 151:4 regards 25:14 106:24 122:14 122:24 192:3 192:6 216:15 216:21 256:23 281:4 299:21 322:9 325:13 regional 239:24 regionally 54:17 registered 1:24 149:4 157:6 157:10 regret 120:1 regular 48:3 67:3 70:13 142:14,16,17 332:6 reimburse 265:6 reissuance 264:19	reissuing 264:24 relate 17:23 61:6,7 62:14 63:2,7,7 131:21 related 18:13 33:12 81:16 82:5 85:3 95:10 96:11 197:19 198:19 249:4 287:20 298:22 relates 20:10 89:19 141:12 276:14 277:6 277:13 278:20 290:20 333:1 relating 4:4 19:18 49:1 93:9 248:24 250:23 284:12 300:5 327:21 relation 38:24 47:21 82:11 82:18 129:14 296:15 Relations 271:17 relationship 169:8,13 299:3 relative 345:23 relevance 294:19 341:8 relevant 18:25 relieve 213:7 rely 340:17 remains 208:3 remarks 292:25 remedied 42:3 42:6,7 remedies 92:5 remedy 93:8 remember
--	--	---	--	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

79:17 88:7 112:25 162:3 174:9 253:25 298:7 308:16 313:10,13 316:2,21,22 317:4 327:2 333:23 334:1 334:2,4 remind 39:13 39:15 41:13 reminder 38:15 38:16 39:22 removal 208:8 removed 190:5 removing 250:20 rent 312:5,8 rented 311:10 repeat 5:14 12:18 38:7 51:24 54:1 55:7 67:18 73:25 78:5 82:8 83:22 85:4 91:22 97:15 106:4,7 108:15 113:17 117:15 119:12 188:2,4 203:19,23 243:7 318:24 rephrase 91:7 207:20 replaced 92:15 92:17 195:10 204:7 report 52:16 134:17 169:10 169:23,25 170:2 193:25 194:7 339:10 339:14 reported 169:4 170:1,6	reporter 1:24 5:7 6:2,6 252:1 reporting 169:7 169:13 346:2 represent 3:17 9:10 155:3 329:11 representative 46:3 172:6 representativ... 274:1 represented 208:23 241:18 302:7 303:10 representing 83:24 reps 200:3 201:14 request 5:8 6:10 12:16,24 13:20 77:4 145:13,23 239:2 265:6 requested 240:13 322:17 requesting 61:7 84:12 requests 15:7 required 10:20 139:10 216:9 274:8 284:21 294:20 308:17 Reserve 165:14 166:15 reserved 140:23 residence 16:16,20 115:7 resign 168:5 291:23 resignation 291:15,21 292:23	resigned 294:1 294:10 resolution 248:13 resolved 200:1 261:23 262:1 262:3,24 resource 303:3 resources 50:23 59:2 335:6 respectfully 101:12 respectively 320:24 respond 41:9 41:18 149:9 199:9 218:5 241:3,8 326:16 responded 41:5 199:15 207:8 262:25 responding 293:18 332:19 332:24 response 15:22 34:19,25 77:4 84:7 179:22 184:12 191:20 208:1 232:12 240:17 241:11 280:21 286:7 287:4,7,19 291:11 309:5 responses 6:2 15:6 responsible 303:5 responsive 12:15,23 result 22:4,12 82:19 97:5 115:15 163:9 199:10 217:10	241:11 248:21 296:3 results 132:16 resume 159:22 160:9,12 278:1 283:5 286:16 332:8 332:9,18 resumes 332:20 333:1 retain 18:11,24 19:5 68:3,11 69:8,11 172:3 172:10,16 retained 68:25 138:17 retaliated 100:18 101:4 101:14 255:1 retaliation 22:23 101:19 102:14,19 103:7 104:1,9 105:16 106:2 106:18 113:13 113:16,20,22 114:3 115:12 115:18 117:3 117:6,13,18 255:10 retirement 278:13 retroactively 250:11 return 114:19 148:24,25 149:8 320:22 321:12 328:21 returned 33:5 185:12 returning 225:2 returns 321:7 321:23 330:16 reveal 86:21 revealed 84:21	85:7,16 86:5 87:22 88:14 reversed 300:11 review 8:2,5 160:21 235:13 235:22 236:10 339:17 340:13 reviewed 137:14 158:25 reviewing 92:3 152:1 158:17 245:17 revisit 254:21 reviving 221:20 re-enrolled 309:15 re-enrollment 308:24 309:8 309:12 318:9 Rick 317:10 rid 213:8 right 12:17,25 21:2 22:10 25:2,12,18 26:13 29:11 36:21 38:2,14 40:1,7,8 43:3 46:7 50:20 51:1 52:5,9,10 52:13 61:8 62:21 63:1 66:21 68:7 74:11,16 76:17 82:7 90:11 91:21 93:6,22 94:10 98:20 100:13 104:24 108:2 110:2 124:6 128:5,15 129:5 134:10 134:14 140:11 140:23,25 144:1 147:6
--	--	---	--	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

148:19 156:23 158:21 161:6 162:13 164:16 166:24 167:23 169:5 171:19 173:2 175:3 175:12,13 178:5 179:2 180:11,20 181:2,20 183:7 184:23 186:5,11 193:9 205:17 206:12 212:2 222:9,20 226:22 238:1 238:20 248:25 249:8 252:12 252:13 253:21 257:15,21 260:7,15 261:25 268:4 272:6 274:24 275:3 280:3 280:12 286:19 287:23 291:17 291:21 292:12 294:18 300:16 300:21 302:9 302:20 303:11 306:3,5 308:5 310:20 312:7 319:16 320:12 335:12 341:17 rights 140:14 141:3 144:3 208:4 220:2,6 220:19 222:2 222:6 223:16 225:9 232:3 237:9 262:2 262:15 267:10 267:10 295:2 295:5,11 297:19	right-hand 15:2 Robert 1:7,17 3:1,7 4:10 43:18 53:9 97:25 227:4 245:2 246:2 247:2 274:3 275:5 Robin 131:19 role 107:13,16 325:8 roles 107:19 250:20 Rose 312:2 Rossi 2:5 13:12 14:15,20 32:3 40:17 68:15 97:24 118:9 127:17 131:6 137:21 141:8 149:24 150:1 150:19 160:14 160:17 161:5 161:20 164:20 200:24 201:2 214:8 225:13 227:3 246:25 247:24 248:2 254:17,20 275:3 278:17 283:5,10,12 284:19,25 285:3,7 286:12 288:3 290:14 294:19 295:6,24 301:1 302:7 302:10 304:17 304:22 312:10 314:20 315:3 324:1 330:13 338:4,6,9,14 340:3,7 341:8 344:4 Rossi's 314:23	Rottenbottom 120:20 roughly 10:13 round 128:21 128:22 routes 158:18 Rowbottom 120:20,22 125:20 327:23 328:2 Rowdy 313:19 Rudin 312:2 Rule 10:19 346:4 rules 3:3 4:21 140:6 343:12 run 156:22 202:25 317:5 Ryan 24:15 25:1 31:24 32:11,12,14 32:17,21 33:9 33:17 34:1,7 34:11,15,18 34:24 35:5,12 37:4,9 38:17 39:7,17 40:5 44:1 46:15 119:23 120:4 120:5,11,16 120:25 121:16 121:24 124:13 124:15 169:6 169:11,16 170:1,3,13 315:19,23 316:3 Ryan's 122:1	safety 27:15 33:22 37:21 39:21 63:15 81:15,19 84:8 84:10 88:17 88:19 118:17 118:18 119:17 Sam 120:20,22 121:18 122:14 sat 39:8 satisfactorily 99:19 satisfy 171:4 Saturday 336:19,20 save 76:2 153:11 saw 79:6 saying 5:15 54:8 70:8 74:25 76:5 80:20 90:3,16 93:10 94:15 94:22 105:25 113:25 124:15 125:11 127:22 166:8 169:22 196:12,15 199:12 200:2 200:7 201:9 203:12,20,24 204:7 206:16 207:14 208:21 233:11 246:23 270:15 276:6 278:10,19 279:12 282:19 295:16 317:2 331:22 says 44:14 45:9 45:10 78:25 84:20 87:13 88:16 93:19 99:17 100:20 101:7,12	103:2,4 132:13 141:16 142:18 148:10 148:15 157:4 157:5,9 161:6 161:7 162:22 181:13,16 200:5 221:24 222:15 235:22 254:12 255:20 260:12 261:3 263:18 267:17 267:18 272:7 276:21 289:7 289:9 292:22 300:13 326:6 326:7,25 333:21 scared 93:12 schedule 37:1 127:4 scheduled 80:24 234:23 235:2 schedules 48:3 school 119:25 124:19 165:13 165:15,17,17 165:19 311:4 312:16 schools 165:8 165:11,21 166:11,17,18 Schwepes 1:13 100:22 101:10 scratch 53:4 seal 263:19 search 296:4,9 329:18,22 334:23 searching 15:14 331:4,6 331:13 336:13 season 196:9
--	---	--	---	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

196:11,14,16 seasonal 41:21 41:25 139:5,6 139:9,12,13 139:22 170:21 seats 301:25 second 7:22,23 8:9 11:20,25 13:19 35:18 61:13,19 65:16 81:10 81:11 158:12 170:16,17 179:17 210:21 211:23 254:17 258:9,20 261:11 265:11 268:2 273:22 275:1 276:1 283:7 288:8 301:1,13 303:14 338:1 338:18 Secrest 2:4 section 44:4,11 45:16 81:12 82:15 137:4,6 137:24 138:2 138:2,19,22 138:25 139:3 139:5,17 140:1 141:13 141:14 142:5 142:5,8,20 144:1,2 145:11,19 146:9 147:10 148:6 149:16 149:25 150:23 150:24 151:11 153:14,16,18 153:23,24 154:8,11,15 154:16,21 155:9,10,25	156:1,2,3,4,9 156:16,20,21 157:17,18,21 157:22 165:2 194:1,6 245:10,12 272:3 273:5 274:4 282:17 283:15 sections 45:21 153:6 secure 330:18 Security 294:15 see 12:3 26:6 33:1,2,3 44:11 72:15 73:10 74:4,21 77:15 79:1 84:22 90:6 92:5 100:14 102:7 121:22 122:1 122:4,5,9 124:2 130:24 137:25 141:14 150:15 151:12 151:16 155:12 155:16 156:14 157:12 164:1 165:3 172:13 194:3,12,15 215:20 235:15 235:16 236:10 236:12 241:21 258:25 259:25 278:20 280:7 283:23 292:23 293:2,22,23 298:12,16 299:5 315:19 331:2 335:25 seen 8:21 13:9 14:12 77:2 96:7 118:4 121:19 135:18 152:16 161:11	175:21 185:16 202:6,8,10 215:2,3,12 234:19 316:13 317:10 selected 166:13 self 310:17 337:11 send 47:25 48:7 65:24 66:23 67:1,5 70:7 111:12 112:9 243:20 sending 64:10 71:6 333:6 senior 146:17 147:22 151:3 210:24 211:10 211:19,24 222:3,22,24 223:24 224:4 seniority 71:16 93:17 123:20 125:5 126:4 143:22 144:2 144:6,7,8,10 144:18,19 145:5,14,16 145:24 146:1 146:4,10,16 146:19 147:13 147:21 148:2 148:7,9,21 149:11,17,20 150:4,9,25 155:9,15 202:4,9,18 204:11 205:15 205:21 206:7 208:3,3,18 209:16,22 210:22 211:5 211:10,17 212:3,13,17	212:20,25 213:1,11,13 213:14,19,24 214:5,15,24 215:8,21 217:11 218:4 219:4,25 220:1,6,9,18 221:21 222:2 222:6,21 223:10,17,25 224:5 225:9 229:6 231:13 232:2,5 236:4 237:9,22 238:3,8,11 239:3,4 241:12 245:15 245:19 246:17 247:14 249:21 251:8 261:18 262:10,11 267:9 278:25 279:1,3,8,16 279:24 sense 148:15 sent 16:22 17:6 47:19 48:2,12 48:13,21 49:2 52:11 63:3,20 63:22 64:2,13 64:18,23 66:14 70:15 70:20 79:19 82:23 83:3 98:24 99:1 218:3,25 219:3 224:1 228:10 232:13 235:12 238:7 239:22 241:5 243:4 293:19 294:4 314:14 314:17 316:13 322:22	sentence 137:5 138:19 151:15 154:15 176:10 176:12 181:23 182:3,10 187:1 221:24 274:22 276:14 sentences 144:25 145:2 176:15 separate 47:22 165:8 166:1,5 176:10,11 211:14 230:24 233:12 separately 209:13 separation 94:2 104:13 105:11 292:19,22 September 72:1,13 81:6 83:14,17,25 84:2 86:4,11 86:20 87:21 88:12,16 90:1 96:18,23 98:20 99:2 102:20 105:5 116:4 131:18 131:25 132:5 132:9 133:20 133:25 134:9 139:8 171:19 186:10,22,25 187:7,14,22 188:1,7,11 189:10,16 191:23 192:8 192:21,25 196:25 198:3 198:9,15,20 199:2 203:25 205:7,24 206:5,20
---	---	---	--	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

207:7,18	shake 6:4 103:1	234:21 251:18	signatures	72:7 161:20
208:22 209:17	103:3,21	showing 9:22	183:6	171:7,12
209:23 211:25	105:5	13:7 14:10	signed 10:23	285:17
220:17 221:8	shame 94:19	65:9 80:5 98:9	98:15 109:6	situation 84:14
221:9,13,14	shape 149:10	131:14 152:14	162:9,12,17	128:14 217:10
223:9 224:24	share 336:1	159:19 178:13	163:15 167:23	247:4 306:20
225:9 230:5,6	shared 91:20	181:8 185:7	168:12 197:25	342:7
230:9,10,15	Shaw 2:12	197:11 209:14	263:18 271:22	six 133:6,7,10
231:2 235:12	sheer 317:8	209:20 225:20	271:23,23	138:7 145:16
235:18 238:2	sheet 65:14	228:8 232:23	289:17 290:2	145:24 151:22
240:11 249:3	123:20 125:5	258:2,18	318:17	152:3 262:18
249:6 251:2,8	202:9 204:17	259:15 260:22	signing 144:5	sixth 142:15
261:19 262:11	shied 191:2	272:23 277:21	168:15 226:23	skip 81:10
315:16 320:11	shift 35:18,23	280:19 287:1	227:1 272:12	Skipping
331:5 337:12	36:7,18,23	293:14 320:18	273:14	163:24
342:20	48:21 127:5	321:21	similar 96:6	slipping 23:5
sequence	158:12 170:12	shows 213:18	118:12 119:8	23:23 63:17
282:23	170:14,16,17	258:21	119:14	small 116:25
series 4:3 5:4	173:16,22	shrink 118:23	similarly 57:21	189:23
serve 112:14	174:4	118:25	122:5,9	Snapple 1:11
served 10:21	shifts 35:22	shuffle 190:16	183:18	100:22 101:9
310:19	36:10 142:14	191:7,13	simple 59:10	161:24 258:5
service 78:3,9	shipment	sick 61:8,10	109:11 214:12	259:18 260:25
79:5,14 137:7	158:20 159:5	side 200:4	216:1	social 294:15
144:8	shipments	side-by-side	simply 76:5	343:20
services	159:10	211:15	98:23 182:9	softly 20:23
137:18 140:8	shock 92:1	sign 52:22	simultaneous	sold 312:24
set 9:12 10:3	shocked 88:8	164:15 226:21	39:4	solicitations
11:2,14 12:20	242:9	234:7,9,12,13	simultaneou...	332:20,25
92:1 133:3,21	shook 102:24	234:16 237:7	165:25 166:4	solo 56:17
134:1,8	102:25	289:8	166:8,11	somebody 54:3
168:20 178:25	shop 189:24	signal 332:3	sink 303:24	87:1 93:16
235:17 277:2	short 43:22	signature 10:15	304:1 305:3,5	113:12 126:5
301:19 346:6	227:24 316:24	10:17,24 15:1	305:10 306:1	126:8,13
sets 94:11	shortly 180:10	31:3 53:6	sir 18:17 43:19	146:7 194:21
setting 52:12	268:1	74:21 162:7	61:23 78:19	195:14 204:8
67:17 275:20	short-term/se...	167:19 168:16	129:1 162:7	204:19 253:5
276:3	283:22	179:3 185:14	164:16 263:24	299:1 317:2
settled 175:4	shot 156:1	185:18 225:24	287:14 289:2	335:24
seven 136:5	show 121:19	227:14 228:13	297:1 301:15	son 120:1
142:13 202:6	206:24,25	233:2 272:2,6	sister 335:22	sons 119:24
208:2,4	211:24 284:1	273:4,8 289:2	sit 59:8 225:5	soon 80:24
seventh 10:13	284:2 285:11	292:14 301:15	285:9 309:17	81:21 297:6
142:16	285:19	303:13 318:15	site 86:17 88:20	sorry 17:13
Seyfarth 2:12	showed 53:1	344:4	sitting 35:7,11	42:7 48:5



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

49:24 53:2	speaking 16:10	113:7	123:22 162:22	stayed 183:24
65:1 68:16	26:19 206:17	stand 4:11	170:15 199:13	184:3 188:14
69:18 74:24	219:11 338:10	161:9	208:16 217:25	188:18
80:7 85:20	special 124:20	standard 40:14	218:12,17	steel 37:23
86:15 87:3	124:21 125:7	start 5:12,18,20	219:7 259:19	118:20
88:4 94:15	126:14 137:7	7:9 24:9 32:19	261:1 276:9	stenotypy
98:2 103:13	144:8	35:24 36:3	326:17	345:13
109:17,21	specific 15:9	37:24 127:9	statements	step 5:16
114:6 115:3	28:3,11 34:23	127:11 158:13	162:23 163:3	Stepping
120:21 124:12	38:3 41:8,15	200:8 201:10	163:17 168:9	118:22
126:18,23	41:19 103:15	255:13 330:14	168:18,20	Steven 1:24
127:17 130:16	198:4,18	330:17 331:12	215:16 263:8	345:5 346:13
130:19 137:22	250:14 323:1	started 39:9	272:8 273:10	stick 250:7
143:23 156:12	323:7	112:23 118:20	273:18	sticking 107:20
164:21 166:7	specifically	138:14 173:10	states 1:3	sticks 87:13
186:20 188:3	23:1 100:17	173:14 174:1	13:20 99:6	Stimmel 66:10
189:13,20	102:5 105:18	174:24 270:17	132:14,15	66:20 98:18
190:12,25	106:5 132:12	309:1 329:15	137:6 138:20	99:2 102:8,13
200:25 205:11	141:13 155:8	331:18,23	140:2 142:22	102:23,24
215:24 217:3	174:12 281:15	starting 27:19	144:2 148:7	117:1,2,4,12
220:4,16	305:14 319:10	27:21 36:7,16	148:23 150:24	117:17,21
225:2,14	specifics 22:18	36:22 45:15	154:17 163:2	118:1 183:8
230:23 233:14	specified	starts 44:10	166:21 168:1	189:5 197:17
238:13,21	345:21	80:19 81:11	194:1 217:3,8	255:4 256:24
247:24 252:3	speculate 6:11	138:3 156:16	240:8 273:7	323:15
263:15 264:11	speculation	156:20 194:13	292:25 320:23	Stimmel's
275:10 278:19	247:1	212:9 245:13	stating 46:3	256:25
281:13 288:6	speeding	state 1:25 4:9	206:2 222:17	stipulate
306:17 312:3	296:22	179:6 299:20	station 215:11	153:20
335:4 339:25	spelling 32:4	299:22 308:3	316:1,25	stipulated
342:5 343:13	spend 334:6	308:11,21,24	317:7	154:21
sort 91:14	340:7	309:2,9,12,16	status 41:22	stopped 249:11
sorted 95:13	splitting 173:16	309:25 318:10	70:17,23 81:6	249:15 250:8
sought 329:12	173:22 174:3	321:8,25	87:5,12	297:7
sound 252:11	174:6,12	345:3,6	100:12 170:24	storage 16:1,4
sounds 52:1	spoke 33:17	346:14	190:13 191:6	16:7,12,15
134:10 175:13	34:7	stated 32:25	191:7,12	17:11 18:2,12
181:2 186:11	SS 345:3	105:4 116:5	213:16,18	19:13,20
252:13 257:21	stall 27:20,23	139:16 147:18	218:4 219:4	strange 137:19
308:5 320:12	63:17 326:5	266:8	229:5 259:25	streamline
South 2:14	stalling 33:3	statement	262:23 266:25	103:14
speak 97:25	stalls 23:5,24	13:25 55:22	267:3,10	Street 1:22 2:6
233:14 314:12	51:23	56:9 91:10	286:6	2:14
314:20 315:11	stamp 130:25	93:2 108:13	Statute 20:9	strike 28:18
316:20	stamped 113:6	108:17 116:15	21:6	62:14 81:11



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

89:4 90:8	submitting	32:14 35:17	154:5 155:21	120:23 122:25
106:16 173:12	332:7	38:18 39:14	156:7 158:6	239:25
187:12 229:15	subpoena	42:18,22,24	160:7 162:19	TAA 278:9,12
231:20 311:8	280:22 286:8	43:2 44:1,3,22	163:23 172:1	278:23 279:8
315:1	287:4 291:11	45:6,10 46:4	176:14 177:13	table 105:21
strongly 304:19	subscribe 53:5	60:25 169:16	179:3,15	208:15
study 308:10	292:13	169:19,23	182:14 191:6	take 3:12 8:3
342:8	subscribed	302:19,21,22	191:16 198:6	26:23 27:2
studying 211:1	31:2 74:22	305:9	198:11,12	32:17 51:8,11
342:10	179:4 185:15	supervisory	207:11 210:6	69:24 70:4
stuff 18:7 64:13	185:18 226:2	43:24 45:12	230:25 237:10	89:22 118:7
64:15,19,22	228:14	45:17,19	237:12 243:13	131:5 155:4
70:5 91:7	subsection	support 322:6	246:14 248:4	156:2 160:1
125:1 174:6	148:22	324:9,18	248:10 251:5	160:20 200:15
202:12 246:13	subsequent 4:6	340:18	257:16 259:6	204:12 209:9
246:15,18	60:6 129:19	supports	259:9 268:23	213:4 244:1
247:4,8,14	157:9	322:10,14	278:2 280:8	246:7 268:20
249:21 250:16	subsequently	323:3,8 328:2	282:5,10	309:15 341:17
262:2,15	97:8 180:25	340:24 341:2	284:14 296:14	341:19
263:12,16	186:9	supposed 36:9	296:17 297:8	taken 1:18 4:17
264:9,13	subsidiary	46:13 212:13	318:25 319:13	4:20 62:1
267:9 280:8	136:6	216:15,21	319:17 339:4	81:18 84:13
313:13 316:18	substance 10:5	sure 3:22 4:1	343:13,13,13	96:10 97:4
316:19 322:25	156:24,25	5:15,16 7:11	surprise 283:25	172:15 177:15
326:5	241:19	8:3 12:19	284:5,6	177:20 187:24
style 16:5	substandard	14:19 17:14	surprised	188:5 204:18
subject 26:17	27:16 33:4,9	19:3 20:14,20	91:10 93:11	345:19
206:4 207:6	33:16	20:21 30:14	242:9 254:4,5	talk 20:22 21:20
207:14 228:12	substituting	33:15 36:20	suspended	21:24 37:3
238:24 303:20	263:21,25	40:18 46:24	337:4	47:11 102:17
subjects	suggests 21:18	49:22 55:13	sworn 3:4	103:12 113:11
198:14,17,18	Suite 2:15	57:24 60:18	345:9	189:23,24
198:25 199:17	sum 305:19,20	61:11 70:1	Sypherd 213:14	218:5 238:9
199:20 201:17	summer 195:19	72:21 75:21	Sypherd's	238:10 252:21
201:24 202:14	195:24 196:8	76:3 78:12,23	213:18,24	252:25 253:8
202:19	196:12,13,16	80:13 85:20	214:4,15,23	253:11,12
submit 69:6	Sunday 336:19	100:5 102:16	215:13	talked 114:23
332:15	336:21	106:14 115:25	Sypris 278:7,21	129:4 158:2
submitted	Sundays	117:24 118:9	278:25 279:21	158:10 195:2
69:12 70:2	336:19	129:6,6 130:6	280:5,10	196:22 198:2
79:21 85:8	supersedes	136:22,22	system 129:8	316:15 317:12
159:22 185:17	153:12	139:24 141:7		326:2 327:15
271:22 286:7	supervising	147:1,9	T	340:16,20
309:6 320:22	43:4	148:14,18	T 26:24 32:8	talking 46:25
321:7,24	supervisor	149:12,15	66:10 120:23	51:16 87:1



1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
 Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

91:4 223:20 230:21 296:25 298:8 tape 116:24 317:16,20,24 Taraba 24:15 25:2,14,15 26:5,6,9,20,23 26:23 27:2,5,6 27:12,25 28:2 28:5,20,23,25 29:13,16 30:3 30:12,16,19 30:25 31:6,12 38:23 39:2,11 40:6,11 41:4 41:17 52:8 60:25 61:14 66:1,2 67:21 68:6 70:16 73:2,16,22 74:6,10,14,20 75:6,12 77:17 102:7,12,22 102:23 113:11 113:15,18,21 114:2,16,20 115:10,17 116:3 119:24 120:4 124:14 125:6,7,12,14 168:24 169:8 169:13,19 184:11 185:10 189:3 197:17 255:3 256:13 323:11 Taraba's 25:23 40:13 61:17 61:22 75:15 75:23 76:7 256:14,19 tax 320:22 321:7,9,12,23 321:25 328:21	330:16 team 56:4 Teamster 46:11 Teamsters 42:6 43:17 45:18 45:22 46:7,13 136:7,14,20 152:19 178:16 179:1 197:16 225:22 240:1 250:12,20 telegram 149:4 157:6 telephone 76:18 111:2 241:10 254:14 325:18,20 327:10 tell 5:1 11:13 27:12 37:11 38:12 60:5 62:25 81:4 103:15 105:3 108:23 114:25 162:14 251:16 320:20 telling 10:5 84:25 85:6,15 86:3,10,20 87:20 111:12 230:15 270:14 282:13 tells 57:10 108:10 temporary 146:18 147:25 148:1 176:2,5 181:13 182:7 182:14 220:12 231:17,22 ten 319:16 tender 274:7 tendered 291:20 tendering	291:15 term 17:18 23:18 25:5 40:19,21 45:6 46:4 terminable 168:4 terminate 30:12 31:6,13,20 49:15 50:8,15 57:7,10,17,23 58:5,15 59:4 59:16 240:16 terminated 86:24,24 90:15,22 92:13 148:9 148:16,17 149:13 150:12 163:20 164:8 241:14 242:7 242:12 245:15 265:4 274:6 terminating 240:18 250:11 termination 4:7 93:11 95:9 103:10,19,23 104:15,18 105:8 106:6 115:22 117:10 128:4 163:11 242:10 245:19 253:19 254:2 267:13 285:20 289:14 terms 42:25 93:4,23 94:17 94:23 136:12 145:4 152:24 207:16 216:13 216:18 220:7 241:12 279:15 territories 140:3,10	territory 140:7 testified 38:21 39:24 41:14 50:18 75:8 76:11 97:1 104:7 131:22 132:23 216:3 223:9 253:17 255:23 263:2 288:10 297:17 testify 205:14 314:8 315:7 345:9 testifying 234:17 285:10 testimony 63:25 91:19 132:19 133:14 169:14 210:18 225:6 231:23 254:22 255:11 285:18 306:7 306:12,21 307:5 345:12 345:17 Texas 54:18 232:7 thank 32:9 79:18 140:20 150:1 160:16 200:23 233:16 248:2 252:3 254:20 Thanks 150:20 thing 63:16 323:16 things 60:15 114:14 125:1 143:18 173:5 203:6 206:11 246:22 298:9 341:4,20 342:4,11,17 think 4:23 5:19 11:18 13:10	18:20 27:19 27:22 28:15 32:7 39:23 41:8 42:16 50:22 75:8 77:2,12 79:8,9 89:17,18 96:6 97:1,10 101:1 103:14 106:15 106:17 119:10 119:16 120:16 121:2,3,7,9 122:14 123:14 126:12,13 127:2,4 143:16 145:2 147:7 158:10 161:1,5 168:25 179:16 196:23 199:8 208:1,2,11,25 219:14 248:17 251:25 252:9 252:19 254:23 255:14 256:9 256:14,19,24 271:1 274:17 275:9 279:11 296:2,3 299:6 310:13 311:18 312:22,24 313:11 314:14 317:23 322:20 329:8 337:17 337:25 338:17 341:12 thinks 115:7 third 44:10 61:20,22 91:2 96:4 128:19 194:11 301:24 thought 19:10 32:5 82:5 123:7 125:10 164:17 195:2
---	--	---	---	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

202:23 203:2 203:5,7,16 207:1,5 250:24 262:4 266:9 277:14 three 148:24 149:3,10 165:8,23 212:7 265:14 295:17,20 300:24,25 328:25 329:3 329:8,10,19 throw 18:7,11 18:19,21 19:5 Thursday 159:9 Thursdays 174:23 ticket 306:22 307:3,6 time 8:3 14:4 14:16 20:16 21:12,13 24:13,14 26:8 35:23 36:2 38:6 39:3,5 45:8 48:20 49:19 52:18 64:12,21 69:22 72:24 76:2 77:23 89:22 95:8 96:25 99:24 104:25 113:8 116:2,8,10 126:11,12 127:7,8,10,11 130:13,25 132:11 133:2 133:12 134:8 138:16 139:23 153:11 159:24 160:20 163:15 164:7,10 165:22 166:1	166:5 167:12 168:5 170:20 173:10,13,19 174:3,12 176:4,9,18,23 177:4,8,12,13 180:8 181:17 181:24 182:4 182:12 187:2 190:20 201:11 202:4 204:11 205:4,16,22 205:25 206:7 206:13,14 208:13 220:23 221:4,8,13 223:23 225:6 226:8 228:22 231:19 232:2 234:18 240:20 240:25 241:20 242:11 243:12 246:7 249:9 249:10 251:20 252:5 253:18 253:22 257:5 258:12 262:7 264:10,12,17 266:18 284:3 284:22 295:18 306:8,13 312:23 317:9 317:10 331:7 331:8,16 334:8,10,12 334:12,16,21 334:25 337:2 337:8,12 340:2,12 342:19 343:3 345:19 timed 198:11 timely 127:16 127:19,24 times 35:25	37:19 41:3 42:18 43:5 137:14 142:15 142:17 285:15 295:10 306:24 tired 115:6 title 169:2 311:14 today 3:12 4:2 4:19 5:2,4 6:8 6:25 7:5 13:25 14:1 27:22 42:19 55:5,9 129:5 171:7 171:12 225:5 234:18 241:20 285:9,17 306:9,13 315:17 325:1 325:6 339:19 339:23,24 340:1,3,16,21 told 28:25 29:4 30:23 90:20 95:25 108:19 108:21 111:1 111:20 114:14 121:24 170:2 215:7,9 218:25 226:8 229:25 230:14 266:16,22 292:5 327:14 340:23 341:1 tomorrow 341:15 Tony 119:21 121:9 122:15 122:24 123:17 212:8 315:20 315:23 316:10 Tony's 316:12 top 289:8 tornado 326:9 326:20 327:3	total 258:24 261:13 touch 127:12 towmotors 28:10,12,14 37:11 326:3 Trade 278:15 278:17,18 traffic 166:23 167:4 306:22 307:3 training 308:20 309:23 310:2 Trans 295:17 296:21 transcribed 345:15 transcription 345:16 transfer 140:12 154:18 transferred 126:14 142:23 143:3,4,9 transmission 69:3 transmit 70:10 trash 18:21 19:6 treated 81:17 118:11 119:11 119:18 123:2 123:22 124:16 125:12 treatment 120:7 124:20,22 125:7 trial 138:6 tried 241:9 trooper 296:13 296:21 300:19 301:12 truck 28:10,12 28:13 37:21 158:18	trucks 33:1 37:10 51:22 63:15 78:8,14 78:16,17,25 79:3,13 158:20 159:4 326:3 true 11:2 26:14 86:7 127:20 158:15 163:3 163:18 179:1 183:12 226:7 245:21 248:15 251:10,24 266:21 272:8 272:15 273:10 273:18 276:8 277:3,8 284:7 301:19 320:21 338:21 345:16 Trumbull 302:17 trust 155:6 324:6 trustee 178:18 trusteeship 190:3 208:8 truth 5:1 84:25 85:6,15 86:4 86:10,20 87:21 345:10 345:10,11 truthful 88:12 try 116:1 191:3 252:17 253:5 283:12 trying 58:12 93:13 171:13 172:21 186:1 201:18 266:1 277:1 299:14 335:18 TSK 334:1 tunnel 296:1 turn 125:22
--	---	--	---	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

136:25 142:4 142:20 143:21 148:5 155:24 210:21 245:9 258:19 283:14 turned 199:21 297:6 341:16 341:17 turning 137:23 139:25 141:5 150:14 160:18 164:22,25 287:18 301:13 two 11:22 20:7 21:4,21 39:5 47:22 62:11 105:22 126:7 142:16 176:15 190:5 212:7 267:19 276:17 284:2 285:11 285:19 291:20 292:9 293:6 296:2,6 300:20,23,24 308:2 336:8 336:10 Two-page 65:13 type 17:19 37:20 69:15 118:14 119:9 119:15,17 134:21 135:2 292:22 308:13 322:25 329:21 typed 64:23 162:21 185:17 205:11,23 typo 148:18	unanswered 267:6 unaware 205:19 unclear 266:24 267:3,15 unconcerted 264:2 undated 61:10 Undeclared 308:12 underage 298:12 299:4 299:21 300:1 300:5 undergraduate 309:7 underneath 44:18 understand 3:14,24 4:25 6:14 7:1 11:14 23:19 24:5 47:3 62:13 72:22 75:22 91:18 101:11 102:4 109:8 163:5,25 164:4 190:4 192:12 221:23 222:23 225:7 233:10 237:11 237:25 245:4 248:5,6 251:6 254:10 268:24 269:17,24 276:5 277:1,5 289:9 293:4 296:5 299:14 335:19 336:11 341:18 understanding 9:9 20:6 21:2 22:14 33:10 33:18 40:19	40:21 60:14 62:15,25 79:11 93:22 98:13 127:14 136:11 159:21 170:23 179:22 206:15 245:16 248:8 281:24 understood 6:7 6:19 27:9 82:3 82:10 96:9,17 99:23 137:13 138:13 139:20 140:21 141:23 142:12 143:8 144:16 145:22 147:11,16 149:7 150:2 152:3 163:14 163:20 168:17 168:20 170:5 176:12 181:22 182:2,12 223:3 260:4 261:19 undetermined 176:4,8 181:17,24 182:4,8,11 187:2 unfortunate 238:12 unfortunately 202:24 243:16 246:5 247:6 uniformly 274:8 union 43:22 45:20 46:3 67:9 72:16 73:10,20 74:4 102:21 108:19 108:21 111:21 139:11 145:13 145:22 150:13 150:13 164:18	173:8 189:11 190:2,8,14 191:9,15,18 192:18,23 193:13 200:3 205:9 208:7,8 209:1 218:7 218:21 219:1 226:14,19 229:24 232:14 232:25 233:5 234:24 235:5 239:7,10 240:4 243:4,6 243:10,11,17 243:19 245:23 245:24 246:1 248:18,22 249:7,11,15 250:2,8,19 252:24 254:15 254:16 261:22 262:1,7,15,20 262:23 263:3 263:17,22 264:1 267:10 269:5,9,15,20 270:4,7,15,18 273:1,17,23 274:19 275:21 276:7,12,15 276:17,24 278:24 284:15 314:15 322:25 unions 77:15 union's 277:6 unit 92:24 136:14,20 United 1:3 320:23 universe 105:2 105:24 135:6 unload 159:7 unquote 190:7 196:17	unresolved 278:11 unsafe 27:17 33:22 37:10 51:22 326:4 updated 265:18 271:4 updates 212:13 upset 199:23 use 3:23 19:23 23:18 32:10 77:23 112:19 112:21,21 144:21 147:2 147:5 160:25 206:20 254:3 335:15,21 338:4 usual 40:23,25 308:15 usually 72:17 336:20 utility 121:11 125:18 126:24 137:20 144:9 202:8 212:9 212:15,22 215:20
U U 174:11 312:4 Uh-hum 176:20 unable 337:9				V V 324:14 vacated 243:17 243:23 249:22 252:24 254:15 262:22 276:10 vacating 276:15 vacation 41:11 136:18 180:9 180:10,15 vacations 184:14 varies 334:19 336:5 vehicle 23:15



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

23:19 24:2,6 24:12,23 25:7 26:5,9 27:9,13 28:21 32:12 32:20,22 33:19 34:2,7 34:12,16,20 35:1 37:25 50:19 51:5,17 52:13 54:5 64:4 67:17,22 70:24 75:6,13 75:25 76:9,13 77:7 79:6 82:20 85:10 93:8 101:15 101:20 102:14 103:8 104:1 104:10 105:17 106:2,19 113:14,20 117:6,13,19 117:23 118:2 118:13 119:9 119:15 134:12 134:18 135:3 135:7 255:16 256:5,10,16 256:21 257:1 vehicles 23:3 23:22 28:4,8 33:13 vending 25:19 25:19 143:18 173:17,23 174:4,13 vendor 137:7 vendors 33:23 verbal 32:18,20 34:1 70:23 verbally 32:22 52:4 verbiage 153:9 153:10 154:1 version 153:18	271:24 versus 112:21 153:9 154:2 vested 140:14 videographer 5:7 6:1 view 295:19 296:3,6,7,8 301:24 violation 20:10 21:7 97:13,19 131:3 167:5 274:4,13 violations 166:23 vision 257:20 258:21 259:5 261:12 volume 196:4 volunteered 315:7,11 vs 1:9 W W 120:23 wage 41:11 91:8,15 92:7 93:9,15 107:18 109:6 114:8,11 138:21 139:16 175:9 193:8 193:12 197:2 198:22 201:22 202:1,15,21 230:19 wages 42:8 94:5,11 95:23 136:18 142:21 150:13 153:23 171:3,8,14 173:9 193:13 198:23 200:6 203:11 242:21 242:23 322:23	wait 5:8,11,22 40:17 68:15 91:5 137:21 164:20 225:13 254:9 waited 91:5 waiting 91:6 Waive 344:4 walk 199:24 walked 115:13 199:11 wallet 25:23 want 15:20 20:2 69:25 72:21 95:3 103:3 115:3 146:23 153:6 154:25 155:2 185:24 190:15,17 213:22,23 226:24 236:18 237:10 243:19 248:4 249:24 251:5 268:23 270:3 284:9 320:20 324:9 wanted 6:21 18:3 72:15 92:18 161:25 165:7 178:25 191:5,11 236:19 238:9 238:10 245:11 250:25 254:21 wanting 115:1 wants 115:5 125:15,16 warehouse 25:19,20 35:8 42:2 66:3 71:22 125:20 125:24 126:1 126:17,23 143:19 158:8 158:16,25	159:1 169:4 170:9,10 173:17,23 174:3,13,21 180:4,6 186:4 204:9,14,15 204:19 210:19 210:24 211:11 211:19,25 212:4,11,15 212:16,24 213:2,4 220:22 221:1 221:7,12 warehousem... 137:7 144:7 warehouse's 159:9 warehouse/s... 140:8 Warner 24:17 24:19 85:12 85:13,25 86:8 86:12,18 87:3 87:18 88:9 90:10,16 91:19,23 92:12 93:10 95:24 98:16 98:18 99:5 100:11 195:8 324:17,18 327:6,10,15 Warner's 87:10 warning 23:6 23:24 Warren 2:8 62:18 165:13 165:14 166:14 166:14 307:17 310:23 wasn't 72:8 73:3 78:19 84:25 85:6 210:10 229:14	229:21 230:14 231:2 247:6,8 247:12 249:20 270:19 279:24 284:25 298:16 298:24 302:21 313:9 watch 232:1 way 53:7 56:20 69:2 96:11 149:9 184:16 207:25 219:11 219:14 231:8 328:20 332:3 333:7 weapon 295:13 295:15 296:19 297:11,17 300:10 Wednesday 1:18 week 142:13 318:22 319:2 319:4,5 334:6 336:3,6,8,12 336:24 weekend 130:20 159:11 weeks 265:14 292:9 318:22 319:2,6 welfare 150:15 150:23 259:18 went 72:22 73:8 74:2 77:19 124:19 128:21 129:24 174:18 279:1,3 307:7 326:3 weren't 71:22 241:24 247:18 247:22 280:1 Western 165:14 166:15 we'll 4:20 7:9
---	--	--	--	---



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

22:7,17 24:10 32:10 159:2 209:13 220:14 254:3 333:12 we're 4:2 20:20 22:8 36:14 46:12 107:20 145:2 158:11 200:14 295:25 298:8 we've 96:7 105:24 143:16 170:17 193:22 236:3 315:17 324:25 340:16 340:20 whatsoever 67:16 337:10 WHEREOF 346:5 whistleblower 20:9 21:5,24 22:11,20 23:11 100:17 340:18,24 William 66:9 willing 217:13 217:19 218:1 218:12,18 219:8,22 223:14 Wilson 302:18 303:4 304:5 305:14 wish 224:6 227:22 228:2 235:4,14 236:5 239:12 240:6 247:20 withdraw 226:9 268:9 269:12 269:14,22 270:1,5 withdrawal 163:9	withdrawing 268:13 269:19 withdrawn 223:22 225:12 230:20 233:9 233:12 268:5 269:8 withdrew 223:21 230:19 243:17 263:3 268:6,12 269:4,5 witness 68:16 137:22 200:25 214:10 225:14 254:18 282:25 291:1 301:2 345:9,12,14 345:17 346:5 witnessed 78:10 79:14 113:25 116:12 116:14 wonder 261:15 word 82:1,1 84:18,18 99:16,16 137:12,12 138:12,12 139:19,19 141:22,22 143:7,7 144:15,15 145:21,21 149:6,6,23,23 151:9,9,25,25 163:13,13 168:14,14 179:11,11 181:21,21 182:5 187:4,4 213:6 217:17 217:17 words 23:14 27:19,23 46:2	87:5,10 95:15 127:6 206:21 207:19 219:18 219:20 266:8 279:11 333:4 333:23 work 33:5 36:7 47:21,24 48:3 71:21 88:19 114:1,19 115:2,4,6 116:6 118:21 129:16 138:4 140:14 142:13 142:24 143:2 143:13 148:24 149:9 151:20 152:5 174:14 179:9,14 185:12 192:21 194:3,14,18 194:22 195:13 202:18 208:10 272:1 279:21 280:1 282:1 288:17 310:16 319:6 335:2 336:25 337:9 worked 35:18 92:22,25 123:24 138:6 139:11 158:11 280:10 281:17 286:17 287:22 288:12 289:24 291:19 293:5 318:22 319:2 319:4,11,15 319:19 320:4 320:10 worker 92:21 194:19 workers 37:22 60:24 119:1,3 195:11 198:24	199:1 202:2 202:17,22 227:25 working 33:2 36:15,17,23 44:1 51:23,23 63:16 71:13 71:17 73:5 78:18 91:12 92:9 106:20 115:8 141:20 142:1,3 151:5 179:8 198:24 199:1 202:3 203:22 204:2 204:3,19 236:9 330:23 workplace 80:23 works 93:17 94:14 worried 190:4 worry 232:4 wouldn't 218:4 264:6 284:5 Wow 164:12 wrap 118:23,25 write 69:21 75:1,3 111:2 146:23 226:3 232:17 243:5 243:11 254:13 314:4 writing 37:9 39:5,9 74:23 141:18 168:12 179:1 186:21 218:24 228:23 236:7 338:20 written 27:13 27:25 28:4,20 32:18 37:3 38:10,22,25 39:25 40:3,10 42:10,14	51:16 64:2 67:16 70:17 70:25 178:15 185:10 240:12 339:10,14 wrong 41:21,21 42:3 63:1 97:2 195:2 304:13 wrongdoing 190:7 270:17 wrongfully 304:14 wrote 34:4 178:21 193:24 243:9 275:11 338:16 339:9 339:15 W-2 321:11
--	--	--	--	---

X

X 138:22
139:16 142:21

Y

Y 121:8 179:23
yeah 33:21
34:21,21,22
38:2,15 39:6
48:13 52:17
56:22 61:11
61:11 63:22
64:20 79:2,2,2
79:10 113:10
120:24 123:1
123:19 125:19
126:1 128:21
130:25,25
133:9 136:1
137:19 146:7
146:8 152:7,8
154:12 156:21
157:1,8,12,13
159:7,7,12
162:14 164:2
164:2,3,3,13



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

164:17 166:25	318:13,16,19	\$	17:18 44:11,11	74:20 75:7,14
167:6 170:7	320:12 321:10	\$1.15 112:8	45:16,16 77:7	76:6 77:1,25
174:9,9,22	327:17 329:20	\$14,000 305:25	130:15,16,17	78:6,10 79:5
175:22 178:23	330:2,6,25	\$35 260:14	132:13 137:4	79:15 175:24
179:4,18,25	331:11 333:5	\$40 257:19	137:4,6 140:1	190:24 316:4
180:22,23	335:11,14	259:4	141:14 144:1	316:8,10
181:19,20,21	336:18 339:4	\$40.25 261:13	150:23 153:14	11th 26:7,19
185:19 186:11	339:4,4,7,11	\$7,000 305:20	153:16,18	28:1,5 32:14
188:21 189:23	340:25	305:21	155:9 224:14	65:15 68:4
192:15,17	year 149:20	0	236:3 253:19	72:23 77:14
193:10,10,24	150:5,8 152:5	01 302:16	260:6 268:3	78:4 132:21
200:11 201:13	199:6 206:8	05 292:22	274:25 290:3	133:1,15
201:20,25	206:18 207:8	294:11	338:2,3	134:7 315:20
205:13 209:10	207:16 217:9	06 278:10	1st 7:25 8:11	315:24
212:2 214:25	217:13 231:24	07 132:5,9	98:15,25 99:4	11(c) 81:12
216:6 218:20	236:21 237:20	158:7 162:17	130:23 139:7	82:16
218:24 223:12	318:23 319:3	171:19,21,24	139:9 151:7	11-17-2010
223:18 224:19	319:7 321:9	174:25 319:24	179:21 241:14	252:24
225:25 226:2	321:25 325:12	08 175:1 177:1	258:22 259:23	118 193:10
226:5,8,21	330:20	177:17 178:1	265:12 267:17	11823 91:9,17
228:1,14,14	years 120:6	178:5 180:9	267:21 279:3	91:21,25 95:5
230:12 237:15	279:18 308:2	180:24 278:11	1)ln 274:4	193:9,23
237:19 239:9	308:3,11	319:25 320:3	1-2 45:21	197:3,20
239:20 241:21	312:25 313:7	320:4	10 65:10 66:20	203:10 235:12
242:15 250:24	313:8,11,14	09 81:7 133:20	67:11 74:11	11824 224:25
255:12 257:21	313:18	133:21,25	74:15 75:10	226:10
269:2,13	yelled 230:1	134:1,9 181:1	75:16,19,23	12 51:19 52:12
272:5,17	Youngstown	182:18,22,25	76:7 77:17	53:15,21
273:6,13	25:16 35:20	183:5,16,21	153:23 156:2	62:20 63:4,21
275:6 276:16	46:17 47:8	184:10,13,19	157:17,21	63:23 64:3
276:23 279:19	51:1 54:5 71:6	184:23 185:10	10th 233:25	71:7 80:6,16
280:13 281:12	71:13 72:5,11	185:23 186:8	241:4 258:6	96:8 99:20
284:18 288:14	72:22 73:9,23	186:10 187:7	261:1	113:4 181:14
289:6 292:2	74:2,19 77:14	187:14,22	10-15-10	12th 51:6 68:5
297:14 298:21	83:19 85:3,10	188:7,11	115:20 117:9	70:14,21
298:24 302:1	119:8,14	195:19,24	1099 321:12	112:1
302:10 303:12	132:20 133:3	196:8,12	11 17:21 28:22	12010 256:20
304:3 305:6	133:13,22	221:8,13	34:2,8,12,16	13 83:12 90:2,4
305:12 306:6	134:2 136:5	261:19 320:5	34:20 35:1	96:4 149:16
306:16 308:18	152:19 190:11	320:8,9,10,11	37:5,9 38:4,11	149:25 157:18
308:25 309:10	239:25	331:5 337:12	38:23 40:4	157:23
309:21 311:22		342:20	42:10,14 52:3	13th 226:12
313:5 314:3	Z		52:8 70:18	239:23
314:25 316:5	Z 31:24 32:8	1	72:6,11 73:5,9	131 2:14
316:9,12,12			73:24 74:3,15	137 161:2



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

14 98:10 99:24 116:4 143:22 155:10 198:9 198:15,20 199:2 203:25 205:7,24 206:5 207:7 208:22 209:18 209:23 211:25 230:6,10 240:19 249:6 14th 102:20 105:6 176:3 196:25 198:3 230:15 231:2 140 165:1 143 164:25 165:2 15 107:14 108:6 109:15,24 110:5,13 131:15 217:15 217:21 218:2 218:14,19 219:10,24 221:19 223:15 228:20,25 229:1,9 235:13 236:8 236:14 238:15 238:16 240:14 333:12,15 337:3,8 338:11 15th 107:1,21 139:9 228:11 262:22 331:20 342:20 151 2:6 16 135:17,21 150:15,22 156:13 245:8 259:20 291:14 16th 65:17 1642 301:13	17 44:4 83:17 86:11 152:15 243:18 250:5 250:6 17th 83:14,25 84:2 86:4,20 87:21 88:12 88:17 90:1 96:18,23 273:24 275:12 18 189:10 192:21 257:7 258:3,20 18th 128:12 186:22 189:16 191:23 192:8 192:25 233:1 253:24 19 211:11 243:21 259:16 302:25 303:22 19th 241:7 1900 1:22 1980's 112:24 1989 312:13 1990 311:5 1996 295:12 1999 151:8 2 2 8:20 44:4 132:14 138:22 274:5 287:17 288:4 290:3 322:3,4 327:19 338:2 338:3 339:8 2nd 225:23 242:10 253:23 254:3 265:5 267:14,18,23 2,000 151:20 152:4 2-Step 141:13 20 96:12 132:5	224:19 260:23 263:8 308:3 308:11 20th 76:16 77:9 79:23 80:18 81:5 85:2,9 95:11 96:16 97:5,22 98:1 325:15 2000 190:24 303:1,22 2005 289:5 291:14,16 2006 45:24 136:9 145:8 154:2 279:5 279:14,22 293:17 2006-2010 153:10 2007 13:13 26:10,11 37:18 40:16 41:20 42:4,4 131:18,21 132:1 162:10 162:13 167:23 173:11,14,20 192:16 212:22 319:10,23 320:22 2008 42:4,5 43:14 44:2 61:14 68:19 171:6 175:24 176:3 177:22 178:16 179:9 179:14,21,24 180:3 279:3 319:15 320:2 321:9,12,13 322:21 2009 72:1,13 134:3 181:11 181:14 185:13	186:22,25 188:1 189:10 189:16 191:23 192:8,22 193:1 249:3 279:1,2 315:16 319:19 321:25 2010 26:7,20 28:1,5,22 32:15 34:2,8 34:12,16,20 35:1 37:6,9 38:4,11,24 40:5 42:11,15 51:6,19 52:3,8 52:12 53:15 53:22 62:20 63:4,21,23 64:3 65:15,17 68:4,5 70:14 70:18,21 71:8 71:14,23 72:6 72:12,23 73:6 73:9,24 74:3 74:15,20 75:7 75:14 76:6,12 76:16 77:9,14 78:4,11 79:5 79:15,23 80:18 81:5 83:14,17,25 84:2 85:2,9,18 86:11,21 87:11,19,21 88:10,13 90:1 90:19 91:16 91:20,24 95:5 95:11 96:12 96:16,18,23 97:6,23 98:2 98:15,20,25 99:2,4,20 102:21 103:8 104:1,9 105:6	105:16 106:2 106:19 107:1 107:14,21 108:6 109:15 109:24 110:5 110:13 111:14 111:19 112:1 113:4,14,20 116:4 117:6 117:13,18 132:21 133:1 133:15,16 134:7,22 135:8 136:9 145:8 152:20 153:1,8 154:1 154:2 190:25 195:9 196:25 198:9,15,20 199:2 203:25 205:7,24 206:5,20 207:7,18 209:18,23 212:1,12 217:15,21 218:2,14,19 219:10,24 220:18 221:9 221:14,19 223:10,15 224:24 225:10 225:12,23 226:12 228:11 228:20,25 229:1,9 230:5 230:6,10,11 233:1,25 235:12,18 236:14 238:2 239:23 240:11 240:15 241:4 241:14 242:16 243:4,10,18 243:21,23
--	---	--	--	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax: 216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

249:6 250:5,6 251:2,9 252:22 253:20 253:23 254:3 255:15 256:5 256:10,16 257:1 258:6 258:23,23 259:7,20 261:20 262:11 263:4,19 264:18 265:5 267:14,21,23 267:24 273:24 315:21,24 316:4,8,11 325:15 327:7 327:11,16 328:21 330:15 331:20 333:12 333:15 337:3 337:8 342:21 2010-2013 154:17 155:8 2011 1:18 7:25 8:11 14:1,16 14:21 128:12 129:20 130:4 130:23 190:24 193:7 242:14 252:11,15 257:7 259:23 259:24 260:6 260:7 261:1 263:9 264:24 264:25 265:3 265:12,19 266:6,24 267:4 271:7 318:18 346:7 2013 152:21 153:2,9 154:1 346:18 21 186:25 211:6 224:10,15	240:21,24 271:3 298:20 299:1 21st 72:1,13 81:7 133:20 133:25 186:10 206:20 207:18 220:17 223:9 224:24 225:10 234:23 235:3 238:2 241:23 251:9 261:19 262:11 22 271:15 346:18 23 78:25 193:11 272:24 273:15 23rd 98:20,22 99:2 129:20 242:16 267:24 271:6 24 277:22 278:4 280:6,10 286:16 289:5 24th 242:16 2400 2:15 25 78:25 159:20 160:5,8,19 283:3,4,7 25th 14:16,21 111:14,18 162:10,13,14 252:22 26 45:24 91:20 91:24 167:17 167:20 327:6 327:11,16 26th 85:18 86:2 86:9 87:11,19 88:10 90:19 162:15 195:8 279:5,14,21 292:21 27 175:20 27th 45:23	131:18 132:9 162:15 279:5 28 136:9 178:14 346:4 28th 162:15 282 302:16 285 153:13 29 136:8 152:20 152:21 153:1 153:2 167:22 181:9 29th 130:4 264:18,24 291 153:22,22 154:8 293 155:7 294 155:25 157:19 <hr/> 3 3 9:23 138:3 139:17 140:1 153:14 287:19 287:25 288:1 288:1,2,3 290:4,6 328:18 329:2 331:10 332:5 332:12,17,22 333:3 338:2,3 3rd 13:13 14:1 171:6 185:10 30 45:24 81:23 139:11 144:12 144:18 145:6 185:8 211:6 224:10,16,19 235:12 240:11 251:2 291:16 30th 91:16 95:5 139:8 193:5 230:5,10 235:18 31 186:18 189:2 189:9 191:24	260:7 31st 133:21 134:1,3 178:16 179:9 179:24 192:17 258:23 259:24 312)460-5000 2:17 32 193:21 3200 1:21 33 10:20 197:12 217:1 225:3 230:4,8 236:2 237:14 251:1 251:7 330)393-1584 2:9 34 205:1 208:19 209:9 35 209:11,15,21 211:4,19 224:9,15 36 225:21 238:15 280:24 37 227:12 238:16,18 377 42:6 43:17 45:18 136:8 136:14,20 152:19 178:17 179:2 183:9 183:10 197:16 225:23 240:1 38 228:9 229:11 231:7,8 232:13 238:22 39 232:24 238:21 39.25 258:24 <hr/> 4 4 11:11 12:12 12:21 15:6 52:21 139:6 142:5,8	151:11 153:23 153:24 154:8 287:17 288:5 290:4 293:17 302:25 303:17 337:24 338:17 4:00 36:2,6,8,16 36:16,22 158:14 4:11-CV-0014... 1:9 40 79:1,9,11 233:23 235:25 237:5 239:7 245:23 246:8 251:12 252:4 252:6,17 253:7 318:22 319:2,5 340:10 41 239:19 242:3 245:23 246:8 251:12,22 252:2,4,7,17 253:8 280:24 4143 310:23 42 13:20 251:22 252:2 280:20 281:5 4270 2:7 43 286:5,14 44 128:4 287:2 44114 1:23 44482 2:8 44484 310:24 45 291:9 46 293:15 47 301:10 48 302:13 49 226:15 318:8 4956 226:17,18 238:18 4959 226:15 4982 226:15 499 301:13
--	---	---	--	--



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

5	213:15	9-21-2010		
5 13:8,11 65:13	70 148:5 156:7	220:8		
301:22	156:18 245:9	9-30 230:17		
5th 44:2 241:1	70's 120:18	231:4,16		
318:18	71 148:23	9-30-2010		
50 320:19	149:17 157:20	197:19 247:15		
51 321:6	72 150:14,19,20	9:00 36:3		
52 318:22 319:2	73 151:11	9:15 1:18		
319:6 321:22	77 136:24	90 112:12 138:7		
56 136:24		138:16 170:25		
59 136:25	8	171:22		
	8 59:25 61:14	90's 112:25		
6	61:21 142:20	93 306:23 307:3		
6 1:18 14:11,19	154:11			
43:14 65:13	8th 185:12			
68:19	8(a)(3) 274:4,12			
6-21st-2010	80's 112:24			
213:15	800 253:15			
6-21-2010	82 175:7			
213:25 214:5	8290 175:8			
214:16,24	8291 171:3			
215:8	85 114:25 314:5			
6-21-210	89 311:6			
213:18				
60's 120:18	9			
60603 2:16	9 62:9 63:19			
63 141:5,8,9	64:1 67:12			
65 142:4	111:24 148:6			
67 142:20 154:6	156:4,9			
154:11	245:10,12			
69 143:21	9th 1:22 181:11			
155:21	263:11,19			
	9-14 237:4			
7	9-14-2010			
7 13:20 43:12	107:17 110:15			
52:25 68:18	113:23 114:5			
141:11 155:25	114:12,13			
156:1,3,11,25	115:11 202:5			
339:9	212:11 222:15			
7-Up 1:10	227:24 229:14			
100:21,23	229:17 255:22			
101:8 152:19	9-21 231:25			
274:2	9-21st-2010			
7-20-72 307:13	206:10 220:5			
7-21st-2003	232:3			



Cefaratti Group
THE LITIGATION SUPPORT COMPANY

1.800.694.4787

www.cefgroup.com

fax:216.687.0973

Cleveland: 4608 St. Clair Avenue, Cleveland, Ohio 44103 • 216.696.1161

Akron: One Cascade Plaza, Suite 905, Akron, Ohio 44308 • 330.253.8119

Court Reporting • Video Conferencing • Legal Video Production • Investigations
Claims Services • Process Service • Record Retrieval • Document Management • Trial Graphics

EXHIBIT F

Robert Potts

4143 Jeanette Drive
Warren, Ohio 44484
(330) 856-6103

October 15, 2010

Dr. Pepper Snapple Group
Attn: MICHAEL BOBAL
14301 Industrial Avenue North
Maple Heights, Ohio 44137

RE: Permanent Layoffs

Dear Michael:

As you know, I have been provided with pertinent information regarding a notice of a permanent layoff effective 10/15/2010.

As such, at this time, I hereby respectfully make a request for confirmation of my rank on the plant wide seniority list or Company records. I remember or recall about six or seven employees having less seniority than me on the Company's plant wide seniority list, and any cause and effect of the permanent layoff would, most logically result in retroactively returning me to my warehouse position with all seniority rights, benefits, and union privileges by way of applying plant wide seniority for purpose of a permanent layoff, as length of service shall be any determining factor.

WHEREFORE, I await any response regarding this matter.

Sincerely,



Robert Potts



EXHIBIT G



14301 Industrial Avenue North
Maple Heights, OH 44137

November 10, 2010

VIA CERTIFIED/REGISTERED MAIL

Robert Potts
4143 Jeanette Dr.
Warren, Oh 44484

Dear Mr. Potts,

As of the writing of this letter neither the Company nor your Union (Local 377) has heard your decision regarding the job offer to be a Merchandiser. This offer coincides with your contractual rights with respect to your permanent layoff as a Warehouse Worker.

The grievance answer on grievance #11823 sent to you September 30, 2010 gave you the fifteen (15) day review period to answer us if you wished the available Merchandiser job. It was noted in that same answer that your layoff would be considered permanent effective October 15, 2010.

In a separate meeting with Local 377 on October 21, that we had expected you to attend, your Union notified us (on the day of the meeting) that you were unavailable. The Company, after being told that you wouldn't be available until after October 26, granted an extension through November 5 for you to make a decision on the Merchandiser job opportunity. Still no decision has been communicated back to either the Company or the Union.

This letter spells out your last chance to accept or reject the job offer to be a Merchandiser for our Company. If you wish to accept the offer, you need to contact your Union representatives before the end of business on November 19, 2010. They will in turn contact the Company so the necessary final steps confirming your ability to do the job can be completed.

If you reject this job offer (or fail to respond to the job offer), the Company will terminate your employment, effective November 25, 2010 in accordance with Article 14 (Seniority) section 7, point D of our Collective Bargaining Agreement.

Questions about this letter, and/or your decision to return can be directed to your Union.

Sincerely,

Michael L. Bobal
Associate HR Manager

Cc: Jeff Karla, Regional HR Director
Joel LaMantia, Youngstown Branch Mgr
Teamsters Local 377

ROBERT A. POTTS

Plaintiff

vs.

Defendants

Deposition taken before me, Debbra S. Sabat, Notary Public within and for the State of Ohio, on the 29th day of July, 2011, at 10:00 AM, pursuant to agreement between counsel, taken at the law office of Attorney Michael D. Rossi, Guarnieri & Secrest, 151 East Market Street, Warren, Ohio 44481, to be used in accordance with the Federal Rules of Civil Procedure or the agreement of the parties in the aforesaid cause of action pending in the United States District Court for the Northern District of Ohio, Eastern Division.

1 P R O C E E D I N G S

2 MICHAEL BOBAL

3 having been duly sworn according to law, on his
4 oath, testified as follows:

5 CROSS EXAMINATION

6 BY MR. ROSSI

7 Q. Your name and address, please?

8 A. Michael Lawrence Bobal, my address, 5800
9 Laurent Drive, Apartment 610, Parma
10 Ohio, 44129.

11 Q. 5800 Laurent?

12 A. L-A-U-R-E-N-T.

13 Q. Date of birth?

14

15 Q. Are you from the Cleveland area?

16 A. I am.

17 Q. Did you graduate high school in Cleveland?

18 A. Yes, I did.

19 Q. Which high school?

20 A. Cleveland St. Ignatius.

21 Q. What year?

22 A. '88.

23 Q. Did you attend college?

24 A. I did.

25 Q. Where?

Page 54	Page 56
<p>1 Q. You chose to do that once in a while?</p> <p>2 MS. BENTLEY: Objection.</p> <p>3 Q. As he probably did?</p> <p>4 MS. BENTLEY: Objection to form.</p> <p>5 A. Uh-huh.</p> <p>6 Q. That's a yes?</p> <p>7 A. I would say yes.</p> <p>8 Q. Where did you get that sandbox business?</p> <p>9 That's a good one. I'll have to</p> <p>10 remember that.</p> <p>11 If we recall one of the</p> <p>12 exhibits, which would be a notice</p> <p>13 from OSHA, and if that were dated</p> <p>14 August 20, 2010; setting apart</p> <p>15 Mr. Potts, did you become aware of</p> <p>16 any safety violations or safety</p> <p>17 accusations, allegations regarding</p> <p>18 the tow motors prior to that date?</p> <p>19 MS. BENTLEY: Objection to the</p> <p>20 form of the question and overbroad.</p> <p>21 A. I don't recall being made aware of any</p> <p>22 allegations of safety issues outside</p> <p>23 of the OSHA regulations. To expand</p> <p>24 further, any time there would be, if</p> <p>25 I became aware of anything, I would</p>	<p>1 Q. Joel Lamantia?</p> <p>2 A. At that point Joel Lamantia was becoming</p> <p>3 the branch manager of the Youngstown</p> <p>4 branch.</p> <p>5 Q. You state under the first bullet: "This</p> <p>6 extension stems from the cooperative</p> <p>7 nature we have shared on various</p> <p>8 other issues over the past few</p> <p>9 months." What are those other</p> <p>10 issues?</p> <p>11 A. The first issue that comes to my mind is</p> <p>12 the contract negotiation and</p> <p>13 resolution of a new contract in early</p> <p>14 2010. I want to say after that there</p> <p>15 was another issue that had come up</p> <p>16 dealing with -- I want to say dealing</p> <p>17 with the setup of merchandising</p> <p>18 routes that were being discussed at</p> <p>19 the contract negotiation. And I</p> <p>20 think the last item was dealing with</p> <p>21 a driver related issue, as someone</p> <p>22 was off on disability and we were</p> <p>23 trying to get information to figure</p> <p>24 out what was going to be happening.</p> <p>25 Q. Take a look at E. We'll talk about E and</p>
Page 55	Page 57
<p>1 contact Derrick Bogaard in our</p> <p>2 environmental health and safety</p> <p>3 department and I would contact our</p> <p>4 fleet manager.</p> <p>5 Q. Exhibit D.</p> <p>6 A. Okay.</p> <p>7 Q. Can you identify that for us, please?</p> <p>8 A. That is an e-mail I sent to Justin Averell</p> <p>9 over at Local 377 copying Jeff Karla,</p> <p>10 Gib Tecca, and Joel Lamantia.</p> <p>11 Q. Karla, Tecca and Lamantia, what do these</p> <p>12 fellows have in common that would</p> <p>13 cause you to copy them in?</p> <p>14 MS. BENTLEY: Objection to form</p> <p>15 of the question. Assumes facts. Go ahead.</p> <p>16 A. They would have positions of either</p> <p>17 management related to the Youngstown</p> <p>18 branch or oversight of that branch or</p> <p>19 from an HR capacity.</p> <p>20 Q. Who is Jeff Karla?</p> <p>21 A. Jeff Karla was my boss at that point. He</p> <p>22 has since retired.</p> <p>23 Q. Who is Gib Tecca?</p> <p>24 A. Gib Tecca, area director, manager within</p> <p>25 the company.</p>	<p>1 F together. Do you know whether</p> <p>2 either of these -- well, first of</p> <p>3 all, can you tell me what they are?</p> <p>4 What are these E and F?</p> <p>5 A. These are letters that I wrote to</p> <p>6 Mr. Potts first in November and then</p> <p>7 again in December.</p> <p>8 Q. What's the import of each?</p> <p>9 MS. BENTLEY: Objection to form.</p> <p>10 Go ahead.</p> <p>11 A. I would need a moment to review each</p> <p>12 one --</p> <p>13 Q. Sure.</p> <p>14 A. -- so I can speak to the import of that</p> <p>15 letter.</p> <p>16 (OFF THE RECORD)</p> <p>17 Q. Have you familiarized yourself with E and</p> <p>18 F yet?</p> <p>19 A. I have.</p> <p>20 Q. What are they?</p> <p>21 A. These are letters that I authored to</p> <p>22 Mr. Potts. E is a letter that I</p> <p>23 authored in November of 2010,</p> <p>24 basically still trying to get an</p> <p>25 answer from the letter of</p>

Page 58	Page 60
<p>1 September 30. And F is a letter in 2 December basically stating, hey, 3 since we haven't heard from you, this 4 is the company's position. 5 Q. The November letter says via 6 certified/registered mail, and 7 December it says via certified mail. 8 Am I to read anything into that? 9 A. I think we wanted to try to send -- I 10 think we sent the November letter 11 registered, as we were attempting to 12 make sure that he got it. There had 13 been some other items that were sent 14 that came back non-claimed, not 15 opened, and we were trying to do 16 everything we could from our power to 17 get the item communicated. 18 Q. If you were doing everything in your power 19 to get the item communicated, 20 wouldn't you send it out ordinary 21 mail when these came back? 22 A. I believe we actually sent both ordinary 23 and -- 24 Q. Do you really? 25 MS. BENTLEY: You have to say</p>	<p>1 were said during that meeting. Is 2 there something in particular? 3 Q. Yeah, when you declined to shake his hand. 4 I'm not interested in the whole 5 meeting. 6 MS. BENTLEY: Objection to form 7 and relevance. 8 A. I think I made a comment there about a 9 harassment claim that was filed 10 against Mr. Potts, or a comment of I 11 feel like I'm being harassed by this 12 person. 13 Q. What did you say? 14 A. I said something along the lines of 15 dealing with a harassment claim 16 because of you. 17 Q. Which harassment claim? 18 A. There was an individual in the office that 19 did not want to, for lack of a better 20 term, deal with Mr. Potts anymore 21 because she was feeling harassed. I 22 investigated, went through -- I did 23 not need to talk to Mr. Potts because 24 their interaction was so limited, 25 didn't need to do anything further.</p>
Page 59	Page 61
<p>1 yes or no. 2 A. Yes, I have done that before. I want to 3 say I did that with Mr. Potts. 4 Q. What do you understand registered mail to 5 mean? 6 A. Actually I had a little bit of learning 7 experience in the case with 8 registered. We were trying to track 9 the letter to see where it was at. 10 Mistakenly we thought with registered 11 we would be able to get a day by day 12 update as to where it stood, but it's 13 not the case. 14 Q. Is that why we abandoned it in December? 15 A. Pretty much. 16 (OFF THE RECORD) 17 Q. The occasion of the September 14 meeting, 18 do you recall declining to shake his 19 hand? 20 A. I do. 21 Q. Do you recall saying something in 22 connection with that declination? 23 MS. BENTLEY: Objection to form 24 and relevance. Go ahead. 25 A. I recall a number of different things that</p>	<p>1 There was no formal charge brought 2 against him. The fact that I had to 3 deal with something is annoying 4 enough when you have 450 people that 5 you are trying to work with. 6 MR. ROSSI: That's all I have. 7 Thank you. 8 MS. BENTLEY: No questions. 9 We'll review and sign. 10 (WHEREUPON THE DEPOSITION OF MICHAEL BOBAL WAS 11 CONCLUDED AT APPROXIMATELY 12:00 PM AND IT WAS 12 AGREED BY AND BETWEEN COUNSEL AND THE PARTIES 13 THAT THE DEPONENT WILL READ AND SIGN THE 14 TRANSCRIPT OF SAID DEPOSITION) 15 16 17 18 19 20 21 22 23 24 25</p>

EXHIBIT H

Robert Potts

Mailing Address
4143 Jeanette Drive
Warren, Ohio 44484

Telephone Contact (330) 856-6103

John Lesicko
And
Local Executive Board
c/o Recording Secretary
TEAMSTERS LOCAL 377
1223 Teamster Drive
Youngstown, Ohio 44502

John Lesicko/Local Executive Board:

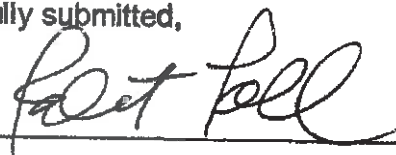
I hereby timely file charges against Business Representative Justin Averell pursuant to section 1 (a),(b) of Article XIX, Trials and Appeals, of the IBT Constitution adopted by the 27th International Convention on June 26-30, 2006 for violations subject to discipline under the Constitution or Bylaws of the Union.

As cause, Justin Averell violated his oath of office by failing to perform his duties as a Business Representative, failing to act solely in the interest of this grievant, and refusing to protect my interest in all dealings with my Employer by way of refusing to process my grievance # 11824 and refusing to withdraw my defective grievance # 11823 as promised in his correspondence dated 10/12/2010, served via USPS Certified Mail Article # 7010-0290-0003-6116-9733; defer to attached copies as exhibited.

In conclusion, Justin Averell breached his oath of office.

Respectfully submitted,

Signed



Dated

10/22/2010

EXHIBIT I



December 13, 2010

VIA CERTIFIED MAIL

Robert Potts
4143 Jeanette Dr.
Warren, Oh 44484

Dear Mr. Potts,

As you know, on September 30, 2010, the Company made you a written job offer for a Merchandiser position in our Youngstown facility. At that time, the Company requested you to indicate your acceptance of this job offer by October 15, 2010, otherwise the Company would need to terminate your employment. You did not respond to the Company's September 30, 2010 job offer.

Instead of terminating your employment at that time, on October 14 the Company gave you additional time to accept the job offer and arranged a meeting for October 21, 2010 to discuss this matter with you in the presence of your Union (Local 377). You did not attend this meeting. Thus, on October 21, the Company again extended the time until November 5, 2010 for you to consider accepting the Company's job offer. Again, you failed to respond. However, the Company did not terminate your employment at that time.

On November 10, 2010, the Company sent additional correspondence to you providing yet another opportunity to consider and accept the Company's job offer. At that time, the Company also notified you that your failure to do so by November 19, 2010 would result in the termination of your employment. Additionally Regional HR Director, Jeff Karla, tried to reach you by telephone on multiple occasions before the final November 19 deadline. Again, you failed to respond to the Company's job offer.

Due to your continued lack of response and consistent with the Company's September 30, October 14 and October 21, and November 10, 2010 correspondence, the Company has terminated your employment, effective December 1, 2010 in accordance with Article 14. (Seniority) section 7, point D of our Collective Bargaining Agreement.

We wish you well in your next endeavor.

Sincerely,

Michael L. Bobal
Associate HR Manager

Cc: Jeff Karla, Regional HR Director
Joel LaMantia, Youngstown Branch Mgr
Teamsters Local 377

5850 5052 0000 04ED 5005

U.S. Postal Service	
CERTIFIED MAIL RECEIPT	
(Domestic Mail Only. No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 44
Certified Fee	2.80
Return Receipt Fee (Endorsement Required)	2.30
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 5.54
Sent To: Robert Potts	
Street, Apt. No. or PO Box No. 4143 Jeanette Dr	
City, State, ZIP+4 Warren, OH 44484	



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

ROBERT A. POTTS)	CASE NO. 4:11-CV-0149-KSM
)	JUDGE KENNETH A. MCHARGH
)	
Plaintiff)	DEPOSITION OF
vs.)	MICHAEL BOBAL
)	
AMERICAN BOTTLING CO.)	
dba DR. PEPPER)	
SNAPPLE GROUP, aka)	
DR. PEPPER/SEVEN UP,)	
INC., fka CADBURY)	
SCHWEPPES BOTTLING)	
GROUP, INC.)	
)	
Defendants)	

Deposition taken before me, Debbra S. Sabat, Notary Public within and for the State of Ohio, on the 29th day of July, 2011, at 10:00 AM, pursuant to agreement between counsel, taken at the law office of Attorney Michael D. Rossi, Guarnieri & Secrest, 151 East Market Street, Warren, Ohio 44481, to be used in accordance with the Federal Rules of Civil Procedure or the agreement of the parties in the aforesaid cause of action pending in the United States District Court for the Northern District of Ohio, Eastern Division.

1 P R O C E E D I N G S

2 MICHAEL BOBAL

3 having been duly sworn according to law, on his
4 oath, testified as follows:

5 CROSS EXAMINATION

6 BY MR. ROSSI

7 Q. Your name and address, please?

8 A. Michael Lawrence Bobal, my address, 5800
9 Laurent Drive, Apartment 610, Parma
10 Ohio, 44129.

11 Q. 5800 Laurent?

12 A. L-A-U-R-E-N-T.

13 Q. Date of birth?

14 [REDACTED]

15 Q. Are you from the Cleveland area?

16 A. I am.

17 Q. Did you graduate high school in Cleveland?

18 A. Yes, I did.

19 Q. Which high school?

20 A. Cleveland St. Ignatius.

21 Q. What year?

22 A. '88.

23 Q. Did you attend college?

24 A. I did.

25 Q. Where?

Page 54	Page 56
<p>1 Q. You chose to do that once in a while?</p> <p>2 MS. BENTLEY: Objection.</p> <p>3 Q. As he probably did?</p> <p>4 MS. BENTLEY: Objection to form.</p> <p>5 A. Uh-huh.</p> <p>6 Q. That's a yes?</p> <p>7 A. I would say yes.</p> <p>8 Q. Where did you get that sandbox business?</p> <p>9 That's a good one. I'll have to</p> <p>10 remember that.</p> <p>11 If we recall one of the</p> <p>12 exhibits, which would be a notice</p> <p>13 from OSHA, and if that were dated</p> <p>14 August 20, 2010; setting apart</p> <p>15 Mr. Potts, did you become aware of</p> <p>16 any safety violations or safety</p> <p>17 accusations, allegations regarding</p> <p>18 the tow motors prior to that date?</p> <p>19 MS. BENTLEY: Objection to the</p> <p>20 form of the question and overbroad.</p> <p>21 A. I don't recall being made aware of any</p> <p>22 allegations of safety issues outside</p> <p>23 of the OSHA regulations. To expand</p> <p>24 further, any time there would be, if</p> <p>25 I became aware of anything, I would</p>	<p>1 Q. Joel Lamantia?</p> <p>2 A. At that point Joel Lamantia was becoming</p> <p>3 the branch manager of the Youngstown</p> <p>4 branch.</p> <p>5 Q. You state under the first bullet: "This</p> <p>6 extension stems from the cooperative</p> <p>7 nature we have shared on various</p> <p>8 other issues over the past few</p> <p>9 months." What are those other</p> <p>10 issues?</p> <p>11 A. The first issue that comes to my mind is</p> <p>12 the contract negotiation and</p> <p>13 resolution of a new contract in early</p> <p>14 2010. I want to say after that there</p> <p>15 was another issue that had come up</p> <p>16 dealing with -- I want to say dealing</p> <p>17 with the setup of merchandising</p> <p>18 routes that were being discussed at</p> <p>19 the contract negotiation. And I</p> <p>20 think the last item was dealing with</p> <p>21 a driver related issue, as someone</p> <p>22 was off on disability and we were</p> <p>23 trying to get information to figure</p> <p>24 out what was going to be happening.</p> <p>25 Q. Take a look at E. We'll talk about E and</p>
Page 55	Page 57
<p>1 contact Derrick Bogaard in our</p> <p>2 environmental health and safety</p> <p>3 department and I would contact our</p> <p>4 fleet manager.</p> <p>5 Q. Exhibit D.</p> <p>6 A. Okay.</p> <p>7 Q. Can you identify that for us, please?</p> <p>8 A. That is an e-mail I sent to Justin Averell</p> <p>9 over at Local 377 copying Jeff Karla,</p> <p>10 Gib Tecca, and Joel Lamantia.</p> <p>11 Q. Karla, Tecca and Lamantia, what do these</p> <p>12 fellows have in common that would</p> <p>13 cause you to copy them in?</p> <p>14 MS. BENTLEY: Objection to form</p> <p>15 of the question. Assumes facts. Go ahead.</p> <p>16 A. They would have positions of either</p> <p>17 management related to the Youngstown</p> <p>18 branch or oversight of that branch or</p> <p>19 from an HR capacity.</p> <p>20 Q. Who is Jeff Karla?</p> <p>21 A. Jeff Karla was my boss at that point. He</p> <p>22 has since retired.</p> <p>23 Q. Who is Gib Tecca?</p> <p>24 A. Gib Tecca, area director, manager within</p> <p>25 the company.</p>	<p>1 F together. Do you know whether</p> <p>2 either of these -- well, first of</p> <p>3 all, can you tell me what they are?</p> <p>4 What are these E and F?</p> <p>5 A. These are letters that I wrote to</p> <p>6 Mr. Potts first in November and then</p> <p>7 again in December.</p> <p>8 Q. What's the import of each?</p> <p>9 MS. BENTLEY: Objection to form.</p> <p>10 Go ahead.</p> <p>11 A. I would need a moment to review each</p> <p>12 one --</p> <p>13 Q. Sure.</p> <p>14 A. -- so I can speak to the import of that</p> <p>15 letter.</p> <p>16 (OFF THE RECORD)</p> <p>17 Q. Have you familiarized yourself with E and</p> <p>18 F yet?</p> <p>19 A. I have.</p> <p>20 Q. What are they?</p> <p>21 A. These are letters that I authored to</p> <p>22 Mr. Potts. E is a letter that I</p> <p>23 authored in November of 2010,</p> <p>24 basically still trying to get an</p> <p>25 answer from the letter of</p>

Page 58

Page 60

1 September 30. And F is a letter in
 2 December basically stating, hey,
 3 since we haven't heard from you, this
 4 is the company's position.
 5 Q. The November letter says via
 6 certified/registered mail, and
 7 December it says via certified mail.
 8 Am I to read anything into that?
 9 A. I think we wanted to try to send -- I
 10 think we sent the November letter
 11 registered, as we were attempting to
 12 make sure that he got it. There had
 13 been some other items that were sent
 14 that came back non-claimed, not
 15 opened, and we were trying to do
 16 everything we could from our power to
 17 get the item communicated.
 18 Q. If you were doing everything in your power
 19 to get the item communicated,
 20 wouldn't you send it out ordinary
 21 mail when these came back?
 22 A. I believe we actually sent both ordinary
 23 and --
 24 Q. Do you really?
 25 MS. BENTLEY: You have to say

1 were said during that meeting. Is
 2 there something in particular?
 3 Q. Yeah, when you declined to shake his hand.
 4 I'm not interested in the whole
 5 meeting.
 6 MS. BENTLEY: Objection to form
 7 and relevance.
 8 A. I think I made a comment there about a
 9 harassment claim that was filed
 10 against Mr. Potts, or a comment of I
 11 feel like I'm being harassed by this
 12 person.
 13 Q. What did you say?
 14 A. I said something along the lines of
 15 dealing with a harassment claim
 16 because of you.
 17 Q. Which harassment claim?
 18 A. There was an individual in the office that
 19 did not want to, for lack of a better
 20 term, deal with Mr. Potts anymore
 21 because she was feeling harassed. I
 22 investigated, went through -- I did
 23 not need to talk to Mr. Potts because
 24 their interaction was so limited,
 25 didn't need to do anything further.

Page 59

Page 61

1 yes or no.
 2 A. Yes, I have done that before. I want to
 3 say I did that with Mr. Potts.
 4 Q. What do you understand registered mail to
 5 mean?
 6 A. Actually I had a little bit of learning
 7 experience in the case with
 8 registered. We were trying to track
 9 the letter to see where it was at.
 10 Mistakenly we thought with registered
 11 we would be able to get a day by day
 12 update as to where it stood, but it's
 13 not the case.
 14 Q. Is that why we abandoned it in December?
 15 A. Pretty much.
 16 (OFF THE RECORD)
 17 Q. The occasion of the September 14 meeting,
 18 do you recall declining to shake his
 19 hand?
 20 A. I do.
 21 Q. Do you recall saying something in
 22 connection with that declination?
 23 MS. BENTLEY: Objection to form
 24 and relevance. Go ahead.
 25 A. I recall a number of different things that

1 There was no formal charge brought
 2 against him. The fact that I had to
 3 deal with something is annoying
 4 enough when you have 450 people that
 5 you are trying to work with.
 6 MR. ROSSI: That's all I have.
 7 Thank you.
 8 MS. BENTLEY: No questions.
 9 We'll review and sign.
 10 (WHEREUPON THE DEPOSITION OF MICHAEL BOBAL WAS
 11 CONCLUDED AT APPROXIMATELY 12:00 PM AND IT WAS
 12 AGREED BY AND BETWEEN COUNSEL AND THE PARTIES
 13 THAT THE DEPONENT WILL READ AND SIGN THE
 14 TRANSCRIPT OF SAID DEPOSITION)
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

EXHIBIT J

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST LABOR ORGANIZATIONS
OR ITS AGENTS**

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
8-CB-11433	5/11/11

INSTRUCTIONS: File an original together with four copies and a copy for each additional charged party named in Item 1 with the NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring. CAM/rh

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name Teamsters Local 377		b. Union Representative to contact Justin Averelle	
c. Telephone No. 330-743-3111		d. Address (street, city, state and ZIP code) 1223 Teamsters Dr., Youngstown, OH 44502	
h. The above-named organization(s) or its agents has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b) subsection (s) (list subsections) (1)(a) and 8(b)(2) of the National Labor Relations Act, and these unfair labor practices are unfair practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.			
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practice(s)) Since on or about November 17, 2010, and continuously thereafter, it, a labor organization, by its officers, agents and representatives, restrained and coerced, and is restraining and coercing, an employee of, in the exercise of rights to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any or all such activities, which rights are guaranteed in Section 7 of the said Act. Specifically, the Union terminated Potts membership and failed to represent him. On or about November 17, 2010, it, a labor organization, by its officers, agents, and representatives, caused American Bottling Co. d/b/a 7 Up Bottling Co. to discriminate against Robert Potts, (1) in violation of Section 8(a)(3) of the Act and (2) whose membership in the said labor organization was terminated for reasons other than failure to tender periodic dues uniformly required as a condition of membership therein.			
3. Name of Employer American Bottling Co. d/b/a 7 Up Bottling Co.		4. Telephone No. 330-799-8705 Fax No. ✓ (330) 799-7064	
5. Location of plant involved (street, city, state, and ZIP code) 1142 North Mandian Road, Youngstown, Ohio 44509		6. Employer representative to contact Mike Bobal, Associate HR Mgr	
7. Type of establishment (factory, mine, wholesaler, etc.) warehouse	8. Identify principal product or service beverages	9. Number of workers employed 50	
10. Full name of party filing charge Robert Potts			
11. Address of party filing charge (street, city, state and ZIP code) 4143 Jeanette Dr., Warren, OH 44484		12. Telephone No. 330-856-6103 Fax No.	
13. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. By <u>Robert Potts</u> Signature of representative or person making charge) /s/ Robert Potts (fax) Address 4143 Jeanette Dr., Warren, OH 44484 330-856-6103 (Telephone No.) An Individual (Print/type name and title or office, if any) ✓ 5/7/2011 (date)			

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigations. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary, however, failure to supply the information will cause the NLRB to decline to invoke its processes.



**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

ROBERT POTTS,)	
)	
Plaintiff,)	Case No. 5:12-cv-02688-JRA
)	
v.)	Judge John R. Adams
)	
AMERICAN BOTTLING COMPANY, et al.,)	
)	
Defendants.)	

DEFENDANTS' JOINT MOTION FOR SANCTIONS UNDER RULE 11

Defendants The American Bottling Company (“ABC”) and Teamsters Local No. 377 (“the Union” or “Local 377”), pursuant to Rule 11 of the Federal Rules of Civil Procedure, respectfully move this Court to impose sanctions against Plaintiff and his attorney, David Engler, for asserting claims without a factual and legal basis. In support of this Motion, ABC and the Union state as follows:

FACTUAL BACKGROUND

1. ABC employed Plaintiff Robert Potts as a Warehouse Loader at its Youngstown, Ohio facility from July 2007 through December 2010.
2. Plaintiff was a member of the Union, and therefore his employment at ABC was governed, in part, by a collective bargaining agreement (the “CBA”).
3. Article 14, Section 1 of the CBA provides that, “in the event of temporary layoffs classification seniority shall prevail.” Classification seniority refers to the department in which an employee worked, such as warehouse, delivery, merchandising. An employee on temporary layoff did not lose his or her seniority until after a period of one year from the date of the temporary layoff. (Dkt. 1, Cmpl. Ex. 4 & 5, Art. 14, Sec. 13.) Only in the event of a permanent layoff does plant-wide seniority govern. (Dkt. 1, Cmpl. Ex. 4 & 5, Art. 14, Sec. 1.)

4. On September 21, 2009, ABC placed Plaintiff on a temporary layoff due to a lack of work. (Dkt. 1, Cmpl. ¶5.)

5. On August 30, 2010, Plaintiff filed Grievance No. 11823, claiming back wages owed as a result of an alleged improper temporary layoff. (Dkt. 1, Cmpl. Ex. 7.)

6. During a September 14, 2010 grievance meeting, ABC offered Plaintiff a Merchandising position. (Ex. A, Sept. 14, 2010 grievance meeting notes.)

7. On September 21, 2010, Plaintiff filed Grievance No. 11824 claiming ABC terminated his seniority without cause and wrongfully discharged him. (Dkt. 1, Cmpl. Ex. 8.)

8. On September 30, 2010, ABC made its employment offer to Plaintiff in writing. Specifically, ABC offered to convert Plaintiff's temporary layoff into a permanent layoff effective October 15, 2010 and give Plaintiff the opportunity to exercise his contractual rights to "bump by seniority" based on his plant-wide seniority. (Ex. B, ABC's Sept. 30, 2010 Correspondence.) In the offer letter, ABC stated that based on seniority the position would be a Merchandiser position. (*Id.*) ABC's offer letter required Plaintiff to respond, in writing, within 15 working days whether he intended to accept the offer. (*Id.*)

9. On October 2 and 6, 2010, Plaintiff wrote to Local 377 and requested that the Union withdraw Grievance No. 11823. (Ex. C, Oct. 2 and 6, 2010 Correspondence.) In his October 2, 2010 correspondence, Plaintiff also stated: "This serves to advise that I am in receipt of the Company's letter date 9/30/2010, mailed via USPS Certified Mail #7002-0510-000-7491-2152, postmarked October 1, 2010." (*Id.*)

10. On October 12, 2010, Local 377 confirmed in writing that Grievance No. 11823 had been withdrawn. (Ex. D, Oct. 12, 2010 Correspondence.)

11. On October 15, 2010, Plaintiff wrote to ABC, but did not state his intention, one way or another, concerning the Merchandising position. (Ex. E, Plaintiff's July 6, 2011 Deposition (Pl. Dep.), 228:8-229:14; Ex. F, Oct. 15, 2010 correspondence).

12. As of October 21, 2010, ABC had still not received an answer from Plaintiff concerning its employment offer (15 working days after ABC's September 30, 2010 correspondence). Therefore, ABC extended Plaintiff's deadline to respond to the offer. (Ex. G, Nov. 10, 2010 correspondence). However, ABC still received no response from Plaintiff concerning the offer.

13. On October 22, 2010, Plaintiff wrote to the Union accusing the Union of "failing to act solely in the interest of the grievant, and refusing to protect my interest in all dealings with my Employer by way of refusing to process my grievance #11824" (Ex. H, October 22, 2010 Correspondence.)

14. Accordingly, effective December 1, 2010, ABC terminated Plaintiff's employment pursuant to Article 14, Section 7, point D of the CBA, which provides:

Any employee shall lose his seniority (terminated from employment):

. . .

D. If he fails to return to work within three (3) days after notice from the Company to return unless circumstances beyond his control prevent him from notifying the Company within three (3) days. Such notice shall be made by registered letter.

(Ex. I, Dec. 13, 2010 correspondence; Ex. 4 & 5.)

15. During his deposition in Case No. 4:11-cv-00149-KSM, Plaintiff testified that:

- He could not identify a single employee having less seniority than he did and who was hired into the Warehouse Department during Plaintiff's temporary layoff, and conceded that, as of September 14, 2010, he remained the least seniority in the Warehouse Department. (Ex. E, Pl. Dep., 194:13-196:21; 209:20-211:21; 220:21-221:16.)

- He had received ABC's September 30, 2010 offer letter and never responded to ABC's offer, even though he *did* correspond with ABC after receiving the offer letter. (Ex. E, Pl. Dep. 197:11-198:1; 228:8-229:14.)
- He withdrew Grievance No. 11823. (Ex. E, Pl. Dep. 196:22-198:1; 225:2-226:10; 230:13-22; 233:8-9.)
- He knew as of November 17, 2010 that the Union had allegedly ceased acting on his behalf. (Ex. E, Pl. Dep. 243, 249-250.)

16. On May 7, 2011, Plaintiff filed a charge with the National Labor Relations Board in which he signed a Declaration asserting, among other things, that the Union had allegedly "failed to represent him." (Ex. J, Pl. NLRB Charge.)

17. On or about October 26, 2011, Plaintiff and ABC entered into a settlement agreement for Case No. 4:11-cv-00149-KSM, whereby Potts released all claims that he had or may have had against ABC, subject to certain specific and delineated exceptions. Specifically, only Grievances 11823 and 4956 were excluded from the release. (Dkt. 20, Settlement Agreement.) Therefore, all other grievances, including Grievance No. 11824, were waived and released by the settlement agreement.

18. Despite the above evidence, Plaintiff (through his counsel Mr. Engler) filed the present action under 29 U.S.C. §185, alleging that ABC breached the CBA by failing to provide Plaintiff with his contractual rights to exercise his plant-wide seniority, that Plaintiff was improperly subjected to a temporary layoff and permanent layoff, and that the Union breached its duty to fairly represent him. Plaintiff bases his claims on Grievance Nos. 11823 and 11824. Plaintiff voluntarily withdrew Grievance No. 11823 and voluntarily settled Grievance No. 11824.

19. On February 5, 2013, ABC's counsel advised Mr. Engler that Plaintiff's claims lacked a proper factual and legal basis. Further, on April 22, 2013, ABC's and the Union's counsel sent Mr. Engler letters pursuant to Rule 11 and included a copy of this joint Motion.

(Exs. K & L, April 22, 2013 Correspondence from C. McArdle and G. Faulkner, respectively.)

Despite counsel's receipt of this Motion, Plaintiff did not file a motion to dismiss his claims within the requisite twenty-one days.

ARGUMENT

20. This Court has jurisdiction to impose sanctions under Fed. R. Civ. P. 11 against Plaintiff and his counsel. Rule 11 provides, in relevant part:

- (a) Representations to the Court. By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, -
 - (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
 - (2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
 - (3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
 - (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

21. Rule 11 requires that an attorney certify to the best of his or her "knowledge, information, and belief, formed after an inquiry reasonable under the circumstances . . . [that] the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery." FED. R. CIV. P. 11(b).

22. In the Sixth Circuit, the test for imposing Rule 11 sanctions is whether the individual's conduct was reasonable under the circumstances. *Apostolic Pentecostal Church v.*

Colbert, 169 F.3d 409, 417 (6th Cir. 1999). Not only does Rule 11 measure what was reasonable conduct at the time of pleading, it imposes a “continuing responsibility to review and reevaluate . . . pleadings and where appropriate modify them to conform to Rule 11.” *Merritt v.*

International Ass’n of Machinists and Aerospace Workers, 613 F.3d 609, 626 (6th Cir. 2010) (citing *Runfol & Assoc., Inc. v. Spectrum Reporting II, Inc.*, 88 F.3d 368, 374 (6th Cir. 1996)).

23. Sanctions imposed under Rule 11 are intended to be an integral aspect of the judicial process, and the Sixth Circuit has shown no reluctance to impose them where counsel failed to properly investigate the factual basis of a client’s claims after a reasonable opportunity to do so. *See Merritt*, 613 F.3d at 626; *Andretti v. Borla Performance Indus., Inc.*, 426 F.3d 824, 835 (6th Cir. 2005); *Mann v. G & G Mfg., Inc.*, 900 F.2d 953, 960 (6th Cir. 1990) (in affirming award of sanctions, noting, “[a] reasonable pre-filing inquiry would have revealed these facts to plaintiff’s counsel.”).

24. In this lawsuit, Plaintiff claims that ABC hired new employees with “less plant-wide seniority” (Dkt. 1, Cmpl. ¶ 7), but plant-wide seniority does not govern temporary layoffs, as plainly stated in Article 14 Section 1 of CBA. (Dkt. 1, Exs. 4&5). Further, even after engaging in discovery through the prior lawsuit (which concerned the same common facts), Plaintiff could not identify any employees with less seniority (either classification or plant-wide seniority) who were placed into the Warehouse Loader position during his temporary layoff. (Ex. E, Pl. Dep., 194:13-196:21; 209:20-211:21; 220:21-221:16). Plaintiff conceded that even as of September 14, 2010, he had the least seniority in the Warehouse Department. (Ex. E, Pl. Dep., 209:20-211:2). Plaintiff has no legitimate factual basis to assert that his temporary layoff was improper.

25. Plaintiff further claims that “[ABC] failed an refused to afford Potts his contractual rights to avoid being placed on permanent lay-off by exercising his plant-wide seniority.” (Dkt. 1, Cmpl. ¶ 8). This allegation also has no basis in fact. It is undisputed that ABC offered Plaintiff the opportunity to use his plant-wide seniority to “bump” into a Merchandiser position , and that Plaintiff received ABC’s offer and did not act upon it.

26. Even so, there is no active grievance supporting his claim under 29 U.S.C. §185. As to Grievance 11824, the Settlement Agreement that Plaintiff executed in Case No. 4:11-cv-00149-KSM, unambiguously provides that the only grievances that survive are Grievance Nos. 11823 and 4956. As such, Grievance 11824 is a nullity.

27. As to Grievance 11823, Plaintiff withdrew this grievance. Indeed, in correspondence dated October 2 and 6, 2010 to the Union, Plaintiff requested that the Union withdraw this grievance, and the Union confirmed the withdrawal of this grievance in correspondence dated October 12, 2010. (Ex. C, October 2, 2010, October 6, 2010, and October 12, 2010 Correspondence.) Moreover, Plaintiff admitted under oath that he withdrew this grievance. (Ex. E, Pl. Dep., 196:22-198:1; 225:2-226:10; 230:13-22; 233:8-9). As such, Grievance No. 11823 is also a nullity.

28. In sum, by virtue of Plaintiff’s own conduct, he has no active grievances upon which he can pursue his §301 claim and therefore the claim is barred by his failure to exhaust the grievance procedure. *Delcostello v. International Brotherhood of Teamsters*, 462 U.S. 151, 163 (1983); *Winston v. General Drivers, Warehousemen & Helpers, Local 89*, 93 F.3d 251, 255 (6th Cir. 1996); *Poole v. Budd Co.*, 706 F.2d 181, 183 (6th Cir. 1983) (“It is axiomatic that an aggrieved employee must exhaust any exclusive grievance and arbitration procedures in a collective bargaining agreement prior to bringing a §301(a) suit against the employer.”); *Aaron*

v. Ford Motor Company, 2011 WL 2149419, *2 (N.D. Ohio) (citing *Wiggins v. Chrysler Corp.*, 728 F. Supp. 463, 466 (N.D. Ohio, 1989)).

29. Even setting aside the above facts, Plaintiff's claims are without merit for the simple fact that his claims are time barred. The statute of limitations for hybrid §301 claims is six months. It is well settled that the statute begins to run when an employee knew or should of known of the alleged acts given rise to the cause of action. *Garrish v. Int'l Union, United Automobile, Aerospace, and Agricultural Implement Workers of America*, 417 F.3d 590, 594 (6th Cir. 2005).

30. Here, Plaintiff asserts that the Union breached its duty of fair representation by failing to process his grievances and by only processing grievances for "politically favored individuals." (Dkt. 1, Cmpl. ¶11.) According to his own allegations, Plaintiff knew of this alleged conduct as early as February 2012 - eight months before he filed his Complaint. (Dkt. 1, Cmpl. ¶11.)

31. However, Plaintiff's own admissions and conduct reveal that he actually knew of the alleged conduct long before this. On October 22, 2010, Plaintiff wrote to the Union accusing the Union of "failing to act solely in the interest of the grievant, and refusing to protect my interest in all dealings with my Employer by way of refusing to process my grievance #11824" (Ex. H, October 22, 2010 Correspondence.) Plaintiff also testified under oath that he knew as of November 17, 2010 that the Union had allegedly ceased acting on his behalf. (Ex. E, Pl. Dep., 243, 249-250.) Furthermore, on May 7, 2011, Plaintiff filed a charge with the National Labor Relations Board in which he signed a Declaration asserting, among other things, that the Union had allegedly "failed to represent him." (Ex. J, NLRB Charge.) Given these facts, Plaintiff had

until either May 2011 or, at the latest, October 2011, to file his action. As he did not file the Complaint until October 26, 2012, his claims are time barred.

32. As evidenced herein, by maintaining his claims, Plaintiff and Plaintiff's counsel failed to comply with standards of legal practice in this Circuit, and thus sanctions are appropriate under Rule 11.

33. After having made more than one unsuccessful attempt to persuade Plaintiff's counsel to voluntarily dismiss Plaintiff's claims, ABC and Local 377 jointly request that the Court impose sanctions against Plaintiff and Plaintiff's counsel pursuant to Fed. R. Civ. P. 11(c), including, but not limited to, dismissal of the Complaint. Defendants further requests that those sanctions include an award of reasonable costs and attorneys' fees associated with its efforts to resolve this without court intervention and the preparation of this motion.

WHEREFORE, Defendants The American Bottling Company and Teamsters Local 377 respectfully request that this Court impose sanctions against David L. Engler and Plaintiff for maintaining the claims in Plaintiff's Complaint, that Plaintiff's claims be dismissed in their entirety, that Defendants be awarded reasonable costs and attorneys' fees, and any other relief that the Court deems appropriate.

DATED: May 13, 2013

Respectfully submitted,

AMERICAN BOTTLING COMPANY

By s/ Cintra B. McArdle
One of Its Attorneys

TEAMSTERS LOCAL NO. 377

By s/ George H. Faulkner
One of Its Attorneys

Richard P. McArdle (admitted pro hac vice)
Cintra B. McArdle (admitted pro hac vice)
SEYFARTH SHAW LLP
131 South Dearborn Street - Suite 2400
Chicago, Illinois 60603
rmcardle@seyfarth.com
cmcardle@seyfarth.com

Joel R. Hlavaty
Frantz Ward
2500 Key Center
127 Public Square
Cleveland, OH 44114
(216) 515-1660
jhlavaty@frantzward.com

George H. Faulkner (0031582)
Joseph C. Hoffman, Jr. (0056060)
Joseph D. Mando (0082835)
Faulkner, Hoffman & Phillips, LLC
20445 Emerald Parkway, Suite 210
Cleveland, Ohio 44135
Faulkner@fhplaw.com
Hoffman@fhplaw.com
Mando@fhplaw.com